

## Addendum to Mitigated Negative Declaration

Project No. 149101  
Addendum to MND No. 5540

**Subject:** **Bay View Plaza: SITE DEVELOPMENT PERMIT, PLANNED DEVELOPMENT PERMIT and TENTATIVE MAP** to amend Site Development Permit number 9100, Planned Development Permit number 179619 and Tentative Map to develop a 74,870-square-foot commercial center on a 4.43 acre site at the southeast corner of Clairemont Drive and Morena Boulevard in the CC-1-3 Zone within the Community Plan Implementation Overlay Zone and Clairemont Mesa Height Limit within the Clairemont Mesa Community Plan Area. (Lot 1 and portions of Lot 2 of West Clairemont Plaza, Map No. 3780).

**Applicant:** C.W. Clark LLC.

### I. PROJECT DESCRIPTION:

On September 20, 2005, the San Diego City Council approved a Site Development Permit (SDP) and a Planned Development Permit (PDP) and Tentative Map for the demolition of the existing commercial buildings and the construction of 86,770 square feet of retail commercial/retail buildings and 88,747 square feet of a semi-subterranean parking garage (See attached Mitigated Negative Declaration No. 5540). Since that time, the project has been redesigned, and an amendment to the permits is required. The proposed project would allow the demolition of the remaining existing commercial buildings. A Demolition Permit number 306452 has already been issued on December 20, 2007 for one commercial building totaling 19,000 square feet.

The amendment would allow the construction 74,870 square feet of retail in six separate buildings and in two separate phases as previously approved. Three of these buildings would share common walls in the approximate location of the previously approved Major Retail building. Phase 1 of the project would include construction of retail buildings 1-5 and the associated parking required for those retail areas. Phase 2 would include the remaining retail building number 6 which would be located on the west side between retail buildings 4 and 5. (See Figure 3A & 3B) A parking structure would be attached to Retail building number 6.



The exterior materials would be dark earth tone in nature. The materials would consist of stone veneer, standing seam metal roof, sand finish stucco, cloth and metal awnings, concrete masonry walls, metal mesh, metal handrails, metal storefront, internally illuminated elevator towers and concrete column bases.

On-site grading would consist of grading 100% of the site which would include approximately 6,690 cubic yards of cut and 8,120 cubic yards of fill. The maximum depth of the cut would be 3 feet and the maximum depth of fill would be 6 feet. None of the soil would be exported. The project site is underlain by the Bay Point Formation, which is assigned a high paleontological resource sensitivity. The City of San Diego has established Significance Determination Guidelines that require paleontological monitoring when a project proposes to excavate more than 1,000 cubic yards of earth and 10 feet or more of depth. Because the depth of cut has been reduced from 16 feet to 3 feet, the project no longer requires paleontological monitoring.

A total of 358 spaces are required for Phase 1 of the proposed project with additional spaces to be added for Phase 2. Additionally, 4 spaces are required to offset the loss of parking on Denver Street associated with the required restriping which would bring the total number of spaces to 362 for Phase 1. With the construction of Phase 2, a total of 7 surface parking spaces would be lost. In addition to replacing those 7 spaces, the project would also provide additional spaces required for the building area of Retail 6. At today's standards that would be an additional 35 spaces for a total of 42 additional spaces. These spaces would be provided by a two level parking garage which would adjoin Retail 6.

The entrances to parking would continue to be from Clairemont Drive, Denver Street, Ingulf Street and Morena Boulevard. Access to the tuck-under parking beneath Retail 4 would be assessed from Morena Boulevard. Access to the tuck-under parking under the office building would be assessed from the surface parking area. In addition to the approved ingress and egress from the surrounding streets, there would be one further ingress/egress for parking and service areas from Ingulf further to the east and directly south of Retail 3, in the general location of an existing curb cut.

II. ENVIRONMENTAL SETTING: See attached Initial Study

III. DETERMINATION:

The City of San Diego previously prepared a Mitigated Negative Declaration (Project Number 5540) for the project described in the subject block and attached Initial Study.

Based on review of the current proposal, it has been determined that:

- a. There are no new significant environmental impacts not considered in the previous Mitigated Negative Declaration;



- b. No substantial changes have occurred with respect to the circumstances under which the project is undertaken; and
- c. There is no new information of substantial importance to the project.

Therefore, in accordance with Section 15164 of the State CEQA Guidelines, this addendum has been prepared. In accordance with Section 128.0306(b) of the San Diego Municipal Code, there is no public review period for this addendum.

IV. DOCUMENTATION:

The attached Initial Study documents the reasons to support the above Determination.

V. MITIGATION, MONITORING AND REPORTING PROGRAM:

The mitigation for Paleontological Resources has been removed due to the amount of grading being reduced to a level below our significance thresholds. Noise mitigation that was originally required has been removed due to design changes and studies provided. These are struck out in the original MND.

VI. PUBLIC REVIEW DISTRIBUTION:

Draft copies or notice of this Negative Declaration were distributed to:

City of San Diego:

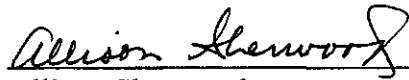
Councilmember Frye, District 6  
Development Services, Farah Mahzari, Development Project Manager (MS 501)  
Development Services, Victoria Huffman, Transportation (MS 501)  
Development Services, Bill Tripp, Permit Planning (MS 501)  
Development Services, Jeffrey Oakley, Landscape (MS 501)  
Development Services, Thomas Bui, Engineering (MS 501)  
Development Services, Allison Sherwood, Environmental (MS 501)  
Planning Department, Brian Schoenfisch, Long Range Planning (MS 5A)  
Library (81)

Other Agencies/Organizations:

C.W. Clark Inc., Applicant  
Caltrans (31)  
Regional Water Quality Control Board (44)  
San Diego Transit Corporation (112)  
Metropolitan Transit Development Systems (115)  
Sierra Club (165)  
Clairemont Mesa Planning Committee (248)  
Clairemont Chamber of Commerce (249)  
Clairemont Senior Citizens Club (252)



Tecolote Canyon Citizens Advisory Committee (254)  
Friends of Tecolote Canyon (255)  
Clairemont Town Council (257)  
Linda Vista Community Planning Committee (267)  
Pacific Beach Town Council (374)  
Pacific Beach Community Planning Committee (375)



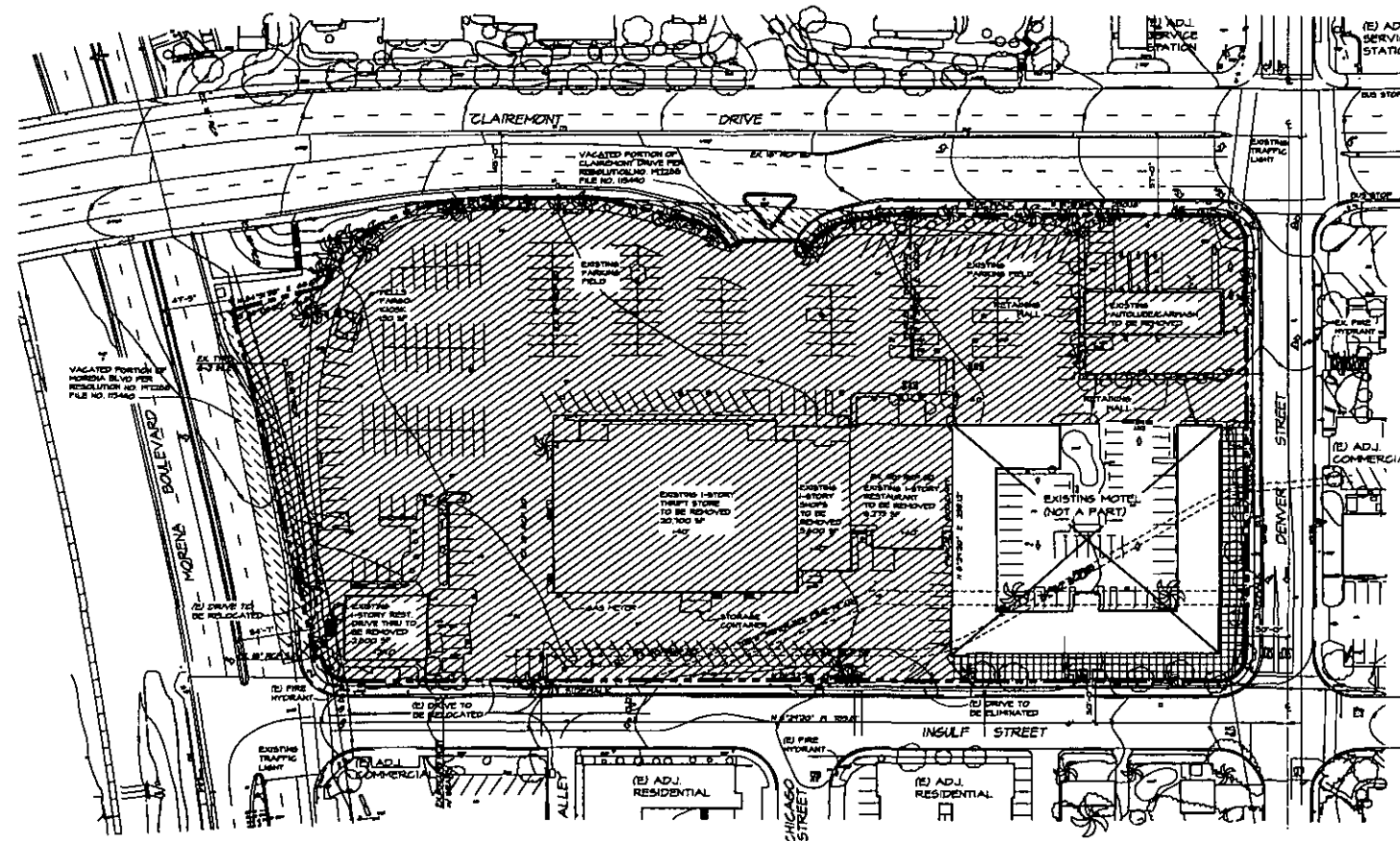
Allison Sherwood  
Senior Planner

March 14, 2008  
Date of Final Report

Analyst: Lizzi

Attachments: Figure 1 – Existing Site Demolition Plan  
Figure 2 – Elevations  
Figure 2A – Elevations  
Figure 2B – Office Elevations and Section  
Figure 3A – Upper Level Site Plan  
Figure 3B – Lower Level Site Plan





# ① EXISTING SITE PLAN/DEMOLITION PLAN

NOTE:  
SEE CIVIL DRAWINGS FOR LOCATION OF PROPERTY LINES, EASEMENTS,  
VACATIONS AND DISPOSITION OF ALL UNDERGROUND UTILITIES, ETC.

## LEGEND

- LIMIT OF PORE, ALL  
 EXISTING STRUCTURES AND  
 EXISTING LANDSCAPE TO BE  
 REMOVED.
- LIMIT OF PORE, ALL  
 LANDSCAPE TO BE  
 REMOVED.
- LIMIT OF PORE, EXISTING  
 CURB AND DRIVE ISLAND  
 TO BE REMOVED.

NOTE:  
DUE TO THE NUMBER OF SITE EASEMENTS, FOR CLARITY  
EASEMENTS ARE SHOWN ON THE ATTACHED CIVIL PLAN.



Existing Site / Demolition Plan  
 Environmental Analysis Section Project No. 149101  
 CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT

Figure

1



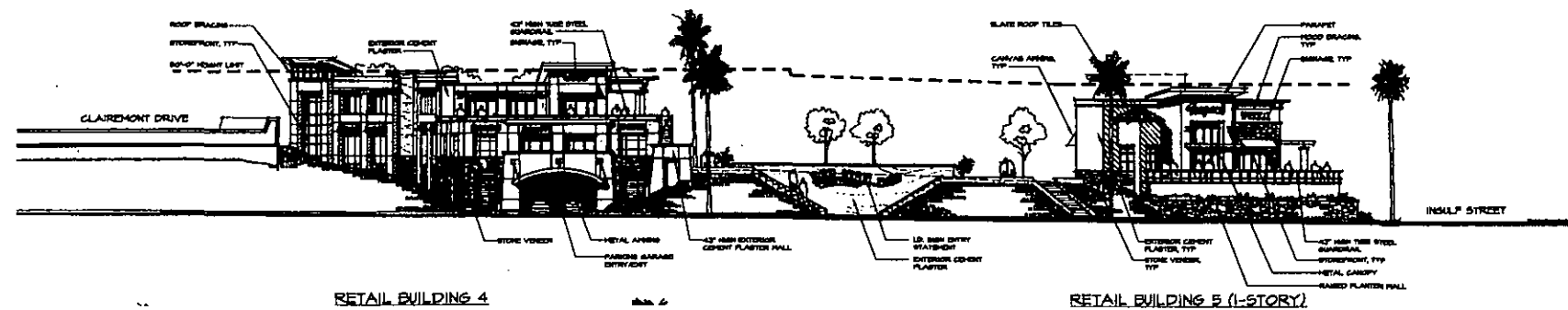






② WEST ELEVATION

SCHEMATIC EXTERIOR ELEVATIONS - WEST BUILDING RETAIL 1



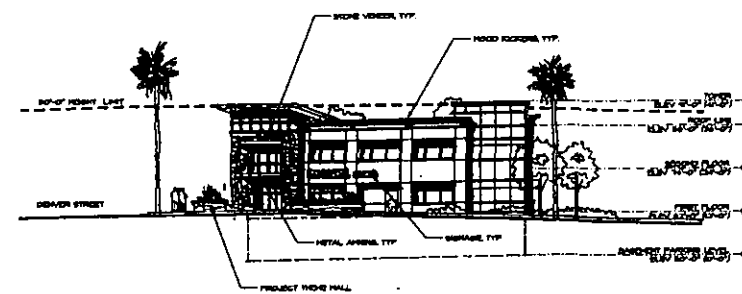
② WEST ELEVATION

SCHEMATIC EXTERIOR ELEVATIONS -MORENA BLVD

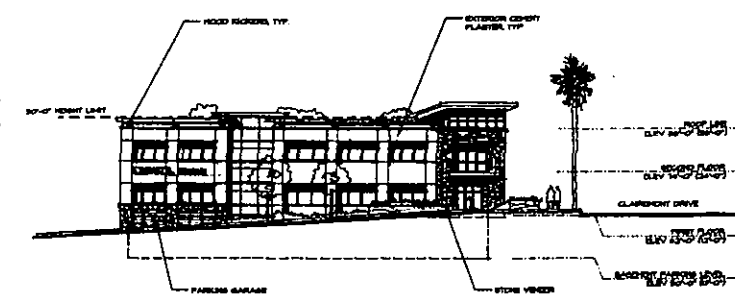
**COLORS AND MATERIALS:**  
ALL COLORS ARE DARK EARTH TONE IN NATURE.  
MATERIALS INCLUDE AND NOT LIMITED TO: STONE  
VENEER, STANDING SEAM METAL ROOF, SAND FINISH  
BRICK, CLOTH AND METAL APRON, CONCRETE  
PARKING BARRELS, METAL HIGH METAL HANDRAILS,  
METAL STONEFRONT, INTERNALLY ILLUMINATED  
ELEVATOR TORNOS AND CONCRETE COLUMN BASES.



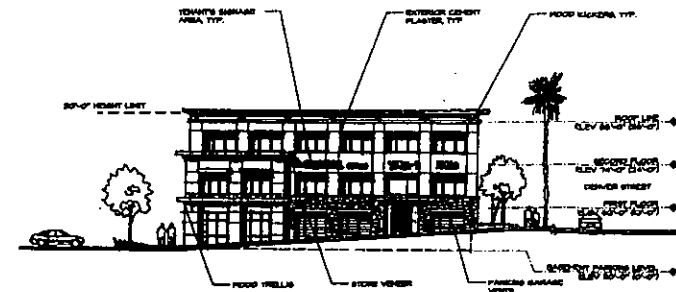




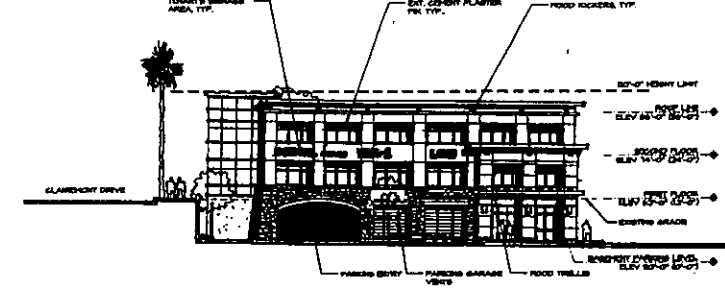
Ⓐ NORTH ELEVATION



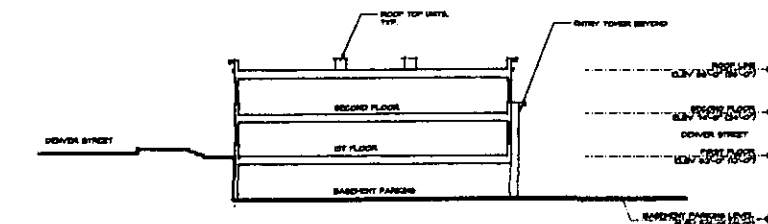
Ⓑ EAST ELEVATION



Ⓒ SOUTH ELEVATION



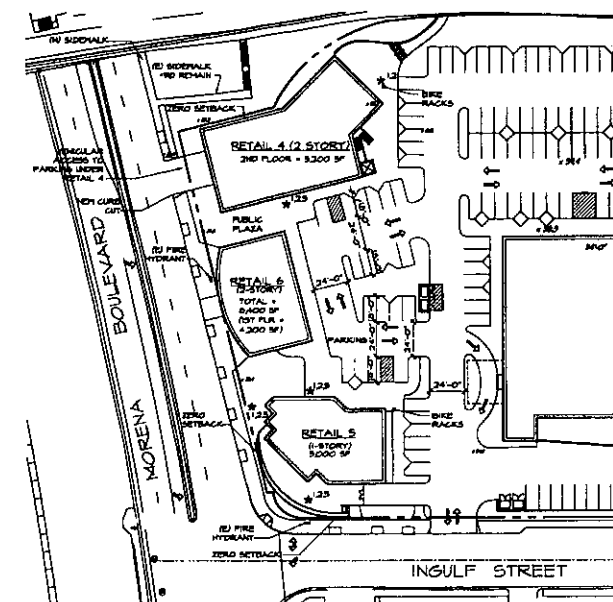
Ⓓ WEST ELEVATION



Ⓔ BUILDING SECTION







**② FUTURE PROPOSED DEVELOPMENT-PHASE 2**  
NOTE: WITHOUT SHARED PARKING CONSIDERATION, THE ADDITIONAL PHASE 2 PARKING REQUIRED OF 4,3000  
50' x 36' SPACES.  
THIS PLAN IDENTIFIES 36 ADDITIONAL PARKING SPACES, LOCATED AT GRADE AND BELOW GRADE FOR FUTURE  
PHASE 2.


<b>SITE AREA</b>		
4.66 ACRES - RETAIL CENTER		19,344 SF
10.66 ACRES - POSITIVE IMPACT SITE (PAI)		47,568 SF
8.46 ACRES - TOTAL SITE		66,912 SF
<b>BUILDING AREA</b>		
RETAIL 1 THIRD 3		30,470 SF
GROUND LEVEL RETAIL		
	<b>SUBTOTAL</b>	30,470 SF
<b>RETAIL 4</b>		
1.00 ACRES - ELEV. PARKING LEVEL	0 SF	
GROUND LEVEL RETAIL	1,400 SF	
SECOND LEVEL RETAIL - CORN/POSSIBLE	8,300 SF	
	<b>SUBTOTAL</b>	9,700 SF
<b>RETAIL 5</b>		
OUTDOOR PATIO	1,000 SF	
GROUND LEVEL RETAIL	5,000 SF	
	<b>SUBTOTAL</b>	6,000 SF
<b>RETAIL 6 &amp; FUTURE PHASE III</b>		
GROUND LEVEL RETAIL	4,300 SF	
SECOND LEVEL RETAIL	4,300 SF	
	<b>SUBTOTAL</b>	8,600 SF
<b>OFFICE</b>		
GROUND LEVEL PARKING	0 SF	
SECOND LEVEL OFFICE	1,200 SF	
THIRD LEVEL OFFICE	7,300 SF	
	<b>SUBTOTAL</b>	8,500 SF
<b>TOTAL BUILDING AREA</b>		54,670 SF
<b>TOTAL RETAIL AREA PHASE I (ONLY)</b>		46,170 SF

FURNITURE REQUIRED (WITHOUT SHOWER PARTITION)			
OFFICE	14,000 SF	@ 2.94/SF	= 43 SPACES
HOTEL	102 Rooms	@ 1/Room	= 102 SPACES
RETAIL	44,000 SF	@ 4.28/SF	= 21 SPACES
RESTAURANT	8,000 SF	@ 13.84/SF	= 58 SPACES
			<b>TOTAL: 124 SPACES</b>

BASE PROJECT TRAFFIC REPORT BY URBAN SYSTEMS ASSOCIATES

BASE REQUIREMENT	=	848 SPACES
SHARED PARKING ACCUMULATION	=	508 SPACES
DROWER STREET	=	4 SPACES
<hr/>		
TOTAL PARKING REQUIRED (PHASE U)	=	563 SPACES
TOTAL PARKING PROVIDED (PHASE U)	=	563 SPACES
<hr/>		
ACCESSIBLE PARKING	=	10 SPACES
MOTORCYCLE PARKING	=	1 SPACES
BICYCLE PARKING	=	1 SPACES

<u>SITE/BUILDING RATIO</u>		1.00
<u>NET AREA</u>		122.14 SF
<u>TOTAL BUILDING AREA</u>		227.0 SF



COLORED CONCRETE

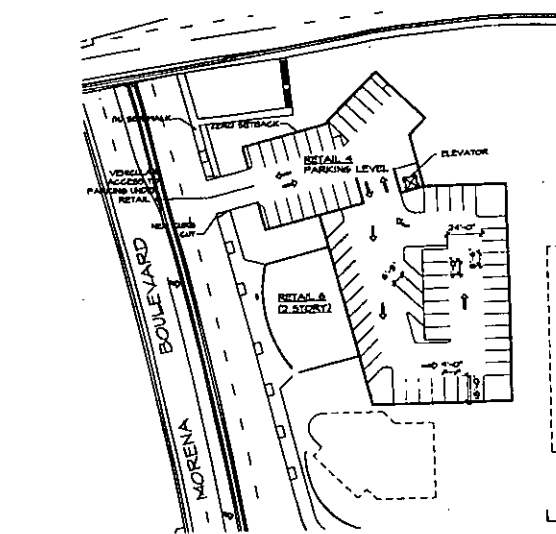
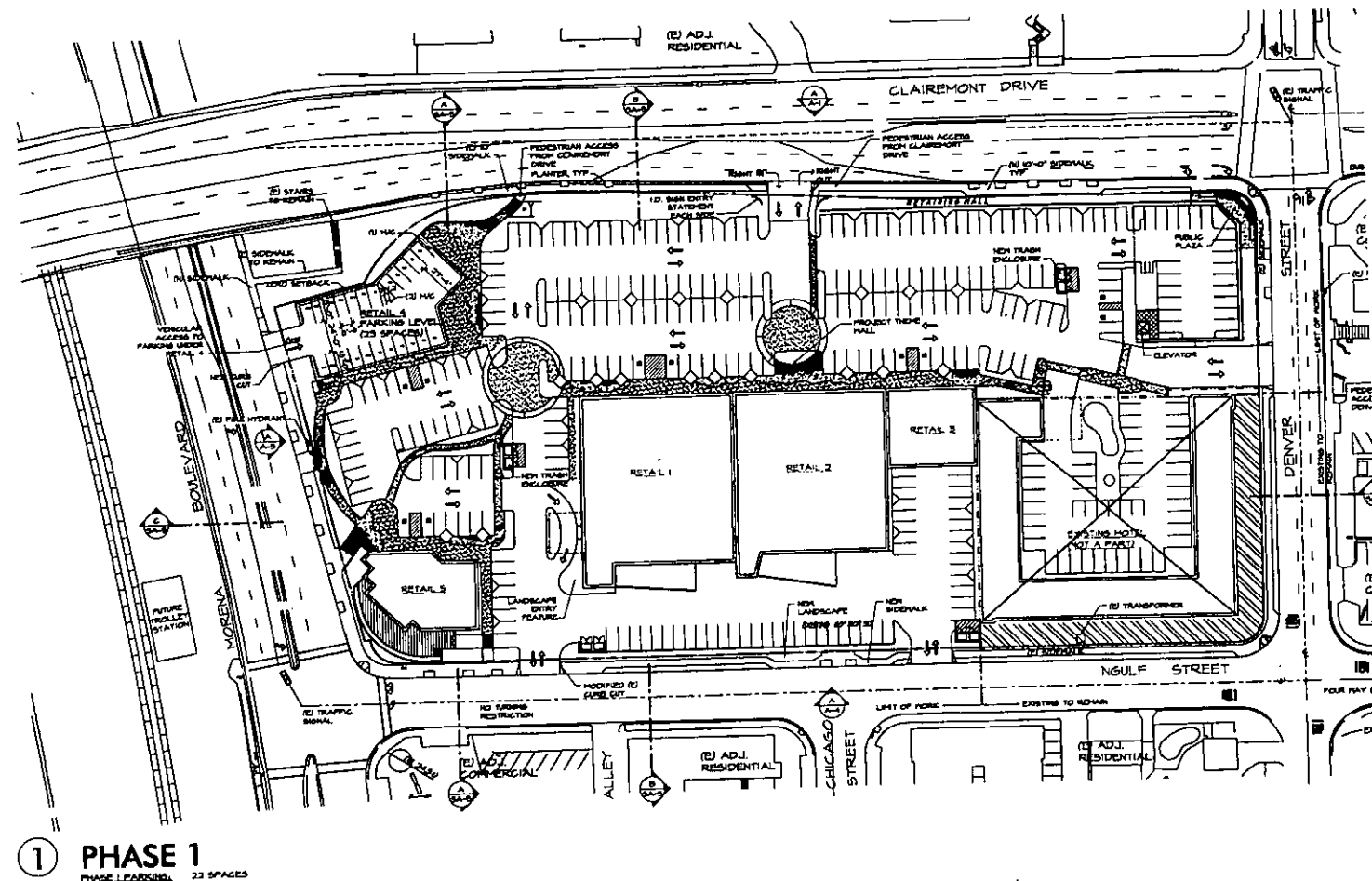
STAMPED ASPHALT/CONCRETE

PATTERNED COLORED ASPHALT/CONCRETE

- \*<sup>1</sup> TRASH CONTAINERS
- \*<sup>2</sup> CIGARETTE URN
- \*<sup>3</sup> BENCHES
- \*<sup>4</sup> PLANT CONTAINERS
- \*<sup>5</sup> PUBLIC SEATING

↑  
N









Land Development  
Review Division  
(619) 446-5460

## Mitigated Negative Declaration

Revised Final

Project No. 5540

**SUBJECT:** Bay View Plaza. PLANNED DEVELOPMENT PERMIT (PDP), SITE DEVELOPMENT PERMIT (SDP), and TENTATIVE MAP (Process 5) to develop an 88,270 86,770-square-foot, multi-use commercial/retail center with a 98,000 88,747-square-foot semi-subterranean parking garage, all on a 5.371-acre site. The project site is located just south of Clairemont Drive and east of Morena Boulevard. Demolition of all existing structures and improvements would be required prior to project construction. The project proposes the construction of five buildings, ranging in heights from one to three stories. The center would also incorporate a parking deck over the subterranean garage to provide additional on-site parking. The SDP would be required for the project's exceedance of a 30-foot height limit by approximately 14 feet. The PDP would be required for the project's encroachment into the 20-foot street setbacks. The site is zoned CC-1-3 and is located within the Clairemont Mesa Community Plan area, Community Plan Implementation Overlay Zone, Clairemont Mesa Height Limitation Zone (30 feet) (Lot 1 and portions of Lot 2 of West Clairemont Plaza, Map No. 3780). Applicant: Burgener - Clark, LLC.

**UPDATE:** Minor revisions to this document have been made when compared to the draft Mitigated Negative Declaration. These changes do not affect the environmental analysis or conclusions of this document. Revisions are shown in the ~~strikeout~~ (delete)/underline (addition) format.

UPDATE for January 10, 2005:

Minor revisions to this document have been made when compared to the final Mitigated Negative Declaration. These changes do not affect the environmental analysis or conclusions of this document. Revisions are shown in the ~~strikeout~~ (delete)/double underline (addition) format.

- I. PROJECT DESCRIPTION: See attached Initial Study.
- II. ENVIRONMENTAL SETTING: See attached Initial Study.
- III. DETERMINATION:

The City of San Diego conducted an Initial Study which determined that the proposed project could have a significant environmental effect in the following areas of paleontological resources, human health/public safety, noise, solid waste and traffic. Subsequent revisions in the project proposal create the specific mitigation identified in Section V of this Mitigated Negative Declaration. The project as revised now avoids or mitigates the potentially significant environmental effects previously identified, and the preparation of an Environmental Impact Report will not be required.

IV. DOCUMENTATION:

The attached Initial Study documents the reasons to support the above Determination.



V. MITIGATION, MONITORING AND REPORTING PROGRAM:

The following mitigation measures are required to reduce potential adverse project impacts to paleontological resources, human health/public safety, noise, solid waste and traffic to below a level of significance.

Long Term Permit Monitoring Fee

1. ~~Prior to the issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Department Fee Schedule to cover the City's costs associated with implementation of the Mitigation, Monitoring and Reporting Program (MMRP).~~

Paleontological Resources

Prior to Preconstruction Meeting

1. ~~Land Development Review (LDR) Plan Check~~

~~Prior to the issuance of a Notice to Proceed (NTP) or any permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the Assistant Deputy Director (ADD) of Land Development Review (LDR) shall verify that the requirements for Paleontological Monitoring have been noted on the appropriate construction documents.~~

- ~~2. Letters of Qualification have been Submitted to the ADD~~

~~Prior to the recordation of the first final map, NTP, or any permits, including but not limited to, issuance of the first Grading Permit and Building Plans/Permits, the applicant shall provide a letter of verification to the ADD of LDR stating that a qualified Paleontologist, as defined in the City of San Diego Paleontological Guidelines, has been retained to implement the monitoring program.~~

- ~~3. Second Letter Containing Names of Monitors has been sent to Mitigation Monitoring Coordination (MMC)~~

~~a. At least thirty days prior to the Preconstruction (Preecon) Meeting, a second letter shall be submitted to MMC which shall include the name of the Principal Investigator (PI) and the names of all persons involved in the Paleontological Monitoring of the project.~~

~~b. MMC will provide Plan Check with a copy of both the first and second letter.~~

- ~~4. Records Search Prior to Preecon Meeting~~

~~At least thirty days prior to the Preecon Meeting, the qualified Paleontologist shall~~



## ~~2. Discoveries~~

### ~~a. MINOR PALEONTOLOGICAL DISCOVERY~~

~~In the event of a minor Paleontological discovery (small pieces of broken common shell fragments or other scattered common fossils) the Paleontologist shall notify the RE, or BI as appropriate, that a minor discovery has been made. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist will continue to monitor the area and immediately notify the RE, or BI as appropriate, if a potential significant discovery emerges.~~

### ~~b. SIGNIFICANT PALEONTOLOGICAL DISCOVERY~~

~~In the event of a significant Paleontological discovery, and when requested by the Paleontologist, the city RE, or BI as appropriate, shall be notified and shall divert, direct, or temporarily halt construction activities in the area of discovery to allow recovery of fossil remains. The determination of significance shall be at the discretion of the qualified Paleontologist. The Paleontologist with Principal Investigator (PI) level evaluation responsibilities shall also immediately notify MMC staff of such finding at the time of discovery. MMC staff will coordinate with appropriate LDR staff. Further, LDR staff and MMC staff will coordinate with the Applicant in securing the project area to control access during recovery of fossil remains.~~

## ~~3. Night Work~~

### ~~a. If night work is included in the contract~~

~~(1) When night work is included in the contract package, the extent and timing shall be presented and discussed at the pre-con meeting.~~

~~(2) The following procedures shall be followed:~~

#### ~~(a) NO DISCOVERIES~~

~~In the event that nothing was found during the night work, The PI will record the information on the Site Visit Record Form.~~

#### ~~(b) MINOR DISCOVERIES~~

~~(1) All Minor Discoveries will be processed and documented~~



~~verify that a records search has been completed, and updated as necessary, and be prepared to introduce any pertinent information concerning expectations and probabilities of discovery during trenching and/or grading activities. Verification includes, but is not limited to, a copy of a confirmation letter from the San Diego Natural History Museum, other institution, or, if the record search was in-house, a letter of verification from the PI stating that the search was completed.~~

### **~~Preconstruction Meeting~~**

#### **~~1. Monitor Shall Attend Precon Meetings~~**

~~a. Prior to beginning of any work that requires monitoring, the Applicant shall arrange a Precon Meeting that shall include the Paleontologist, Construction Manager and/or Grading Contractor, Resident Engineer (RE), Building inspector (BI), and MMC. The qualified Paleontologist shall attend any grading related Precon Meetings to make comments and/or suggestions concerning the Paleontological Monitoring Program with the Construction Manager and/or~~

~~Grading Contractor.~~

~~b. If the Monitor is not able to attend the Precon Meeting, the RE, or BI as appropriate, will schedule a focused Precon Meeting for MMC, Monitors, Construction Manager and appropriate Contractors representatives to meet and review the job on site prior to start of any work that requires monitoring.~~

#### **~~2. Identify Areas to be Monitored~~**

~~At the Precon Meeting, the Paleontologist shall submit to MMC a copy of the site/grading plan (reduced to 11x17) that identifies areas to be monitored.~~

#### **~~3. When Monitoring Will Occur~~**

~~Prior to the start of work, the Paleontologist also shall submit a construction schedule to MMC through the RE, or BI, as appropriate, indicating when and where monitoring is to begin and shall notify MMC of the start date for monitoring.~~

### **~~During Construction~~**

#### **~~1. Monitor Shall be Present During Grading/Excavation~~**

~~The qualified Paleontologist shall be present full-time during the initial cutting of previously undisturbed formations with high and moderate resource sensitivity, and shall document activity via the Consultant Site Visit Record (form). This record shall be faxed to the RE, or BI as appropriate, and MMC each month.~~



~~using the existing procedures under During Construction (see Section 2. Discoveries, Subsection a.), with the exception that the RE will contact MMC by 9 A.M. the following morning.~~

~~(e) — POTENTIALLY SIGNIFICANT DISCOVERIES~~

- ~~(1) — If the PI determines that a potentially significant discovery has been made, the procedures under During Construction (see Section 2. Discoveries, Subsection b.), will be followed, with the exception that the RE will contact MMC by 9 A.M. the following morning to report and discuss the findings.~~

~~b. If night work becomes necessary during the course of construction~~

- ~~(1) — The Construction Manager shall notify the RE, or BI, as appropriate, a minimum of 24 hours before the work is to begin.~~
- ~~(2) — The RE, or BI, as appropriate, will notify MMC immediately.~~

~~c. All other procedures described above will apply, as appropriate.~~

~~4. Notification of Completion~~

~~The Paleontologist shall notify MMC and the RE, or BI as appropriate, of the end date of monitoring.~~

~~Post Construction~~

- ~~1. The Paleontologist shall be responsible for preparation of fossils to a point of curation as defined by the City of San Diego Paleontological Guidelines.~~

~~a. SUBMIT LETTER OF ACCEPTANCE FROM LOCAL QUALIFIED CURATION FACILITY.~~

~~The Paleontologist shall be responsible for submittal of a letter of acceptance to the ADD of LDR from a local qualified curation facility. A copy of this letter shall be forwarded to MMC.~~

~~b. IF FOSSIL COLLECTION IS NOT ACCEPTED, CONTACT LDR FOR ALTERNATIVES~~

~~If the fossil collection is not accepted by a local qualified curation facility for reasons other than inadequate preparation of specimens, the project Paleontologist shall contact LDR, to suggest an alternative disposition of the collection. MMC shall be notified in writing of the situation and resolution.~~



~~c. RECORDING SITES WITH SAN DIEGO NATURAL HISTORY MUSEUM~~

~~The Paleontologist shall be responsible for the recordation of any discovered fossil sites at the San Diego Natural History Museum~~

~~d. FINAL RESULTS REPORT~~

~~1. Prior to the release of the grading bond, two copies of the Final Results Report (even if negative), which describes the results, analysis, and conclusions of the above Paleontological Monitoring Program (with appropriate graphics) shall be submitted to MMC for approval by the ADD of LDR.~~

~~a. MMC shall notify the RE or BI, as appropriate, of receipt of the Final Results Report.~~

Human Health/Public Safety

1. Prior to the issuance of any demolition permits, proper testing shall be conducted by the applicant, to the satisfaction of the City Engineer, to determine if asbestos or lead-based paints exist within the structures slated for demolition. If testing shows the presence of asbestos or lead-based paints, then proper precautions shall be made during the removal and disposal of these materials, as regulated by state agencies (Cal-OSHA and Cal-EPA) and the San Diego Air Pollution Control District Rule 361.145 Standard for Demolition and Renovation, to ensure that no hazards to the demolition crew, adjacent residents, or other individuals are created.

Noise

- ~~1. Prior to the issuance of any building permits, an acoustical analysis shall be submitted to the Development Services Department by the project applicant to ensure that interior noise levels of the project's commercial uses do not exceed 50 dB(A) CNEL.~~
- ~~2. Prior to the issuance of any building permits, an acoustical analysis shall be submitted to the Development Services Department by the project applicant to mitigate for any significant noise impacts that could be created by the project's roof mounted mechanical equipment.~~



### Solid Waste

**LDR Plan Check** – Prior to the issuance of any permit, including but not limited to, any discretionary action, grading, or any other construction permits, the Assistant Deputy Director (ADD) shall verify that all the requirements of the Waste Management Plan have been shown and/or noted on the Demolition and/or Grading Plans (construction documents).

- 1) Prior to issuance of a demolition permit, the permittee shall be responsible to arrange a preconstruction meeting. This meeting shall be coordinated with Mitigation Monitoring Coordination (MMC) to verify that implementation of the Waste Management Plan shall be performed in compliance with the plan approved by LDR and the San Diego Environmental Services Department (ESD), to ensure that impacts to solid waste facilities are mitigated to below a level of significance.
- 2) The plan (construction documents) shall include the following elements for grading, construction, and occupancy phases of the project as applicable.
  - a) tons of waste anticipated to be generated,
  - b) material type of waste to be generated,
  - c) source separation techniques for waste generated,
  - d) how materials will be reused on-site,
  - e) name and location of recycling, reuse, or landfill facilities where waste will be taken if not reused on-site,
  - f) a "buy recycled" program,
  - g) how the project will aim to reduce the generation of construction/demolition debris,
  - h) a plan of how waste reduction and recycling goals will be communicated to subcontractors,
  - i) a time line for each main phase of the project as stated above.
- 3) The plan shall strive for a goal of 50% waste reduction.
- 4) The plan shall include specific performance measures to be assessed upon the completion of the project to measure success in achieving waste minimization goals. The permittee shall notify MMC and ESD when:



- a) A construction permit is issued.
- b) When construction begins.
- c) The permittee shall arrange for progress inspections, and a final inspection, as specified in the plan and shall contact both MMC and ESD to perform these periodic site visits during construction to inspect the progress of the project's waste diversion efforts. Notification shall be sent to:

MMC/Tony Gangitano  
Mitigation Monitoring Coordination  
9601 Ridgehaven Court  
Ste. 320, MS 1102B  
San Diego, CA 92123-1636  
(619) 980-7122 or  
(858) 627-3360

Angelee Mullins  
Environmental Services Dept  
9601 Ridgehaven Court  
Ste. 320, MS 1103B  
San Diego, CA 92123-1636  
(858) 492-5010

- d) When Demolition ends.
- 5) Prior to the issuance of a grading permit, the applicant shall receive approval from the ADD that the Waste Management Plan has been prepared, approved, and implemented. Also, prior to the issuance of the grading permit, the applicant shall submit evidence to the ADD that the final Demolition/Construction report has been approved by MMC and ESD. This report shall summarize the results of implementing the above Waste Management Plan elements, including: the actual waste generated and diverted from the project, the waste reduction percentage achieved, and how the goal was achieved, etc.

#### **Preconstruction Meeting**

- 1) At least thirty days prior to beginning any work on the site, demolition and/or grading, for the implementation of the MMRP, the Permittee is responsible to arrange a Preconstruction Meeting that shall include: the Construction Manager or Grading Contractor, MMC, and ESD and the Resident Engineer (RE), if there is an engineering permit.
- 2) At the Preconstruction Meeting, the Permittee shall submit Three (3) reduced copies (11" x 17") of the approved Waste Management Plan to MMC (2) copies and to ESD (1) copy.
- 3) Prior to the start of demolition, the Permittee/Construction Manager shall submit a construction schedule to MMC and ESD.



### **During Construction**

The Permittee/Construction Manager shall call for inspection by both MMC and ESD who will periodically visit the construction site to verify implementation of the Waste Management Plan.

### **Post Construction**

- 1) After completion of the implementation of the MMRP, a final results report shall be submitted to MMC to coordinate the review by the ADD and ESD.
- 2) Prior to final clearance of any demolition permit, issuance of any grading or building permit, release of the grading bond and/or issuance of a Certification of Occupancy, the applicant shall provide documentation that the ADD of LDR and ESD, that the Waste Management Plan has been effectively implemented.

### **Traffic**

- 1) Prior to the issuance of the first building permit, the applicant shall assure by permit and bond the restriping of Denver Street between Clairemont Drive and Ingulf Street to remove on-street parking and provide a center two-way left turn lane to the satisfaction of the City Engineer.
- 2) The applicant shall provide and maintain an additional four (4) parking spaces (above the minimum required of 468 for the project) on-site to replace the four parking spaces on the west side of Denver Street that would be lost due to the restriping of Denver Street to provide a center two-way left turn lane.

### **VI. PUBLIC REVIEW DISTRIBUTION:**

Draft copies or notice of this Mitigated Negative Declaration were distributed to:

State of California  
Caltrans (31)  
Regional Water Quality Control Board (44)  
City of San Diego  
Councilmember Frye, District 6 (MS 10A)  
Councilmember Zucchet (MS 10A)  
Development Services Department  
Bill Tripp (MS 501)  
Ann French Gonsalves (MS 501)

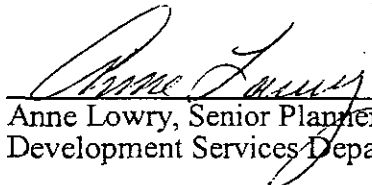


Peter Chou (MS 501)  
Environmental Services, Angelee Mullins (MS 1103B)  
Library - Government Documents (MS 17)  
Mission Bay Park Management, Gary Stromberg (MS 39)  
Planning Department, Kevin Guy (MS 4A)  
Clairemont Community Service Center (MS97)  
Clairemont Mesa Planning Committee (248)  
Clairemont Chamber of Commerce (249)  
Clairemont Senior Citizens Club (252)  
Clairemont Town Council (257)  
Friends of Tecolote Canyon (255)  
Linda Vista Community Planning Committee (267)  
Pacific Beach Community Planning Committee (375)  
Pacific Beach Town Council (374)  
Metropolitan Transit Development Board (115)  
San Diego Transit Corporation (112)  
Sierra Club (165)  
Tecolote Canyon Citizens Advisory Committee (254)  
Burgener-Clark, LLC  
Urban Systems Associates, Inc.  
Sheppard Mullin Richter & Hampton, LLP

VII. RESULTS OF PUBLIC REVIEW:

- ( ) No comments were received during the public input period.
- ( ) Comments were received but did not address the draft Mitigated Negative Declaration finding or the accuracy/completeness of the Initial Study. No response is necessary. The letters are attached.
- (x) Comments addressing the findings of the draft Mitigated Negative Declaration and/or accuracy or completeness of the Initial Study were received during the public input period. The letters and responses follow.

Copies of the draft Mitigated Negative Declaration, the Mitigation, Monitoring and Reporting Program and any Initial Study material are available in the office of the Land Development Review Division for review, or for purchase at the cost of reproduction.

  
Anne Lowry, Senior Planner  
Development Services Department

March 23, 2004  
Date of Draft Report

July 6, 2004  
Date of Final Report

Analyst: Lowry

January 10, 2005  
Date of Revised Final Report



RECEIVED

APR 12 2004

Development Services

Anne Lowry  
Environmental Planner  
City of San Diego Development Services Center  
1222 First Avenue, MS 501  
San Diego, CA 92101

RESPONSE TO COMMENTS

RE: Bay View Plaza; Project No. 5540; Draft Mitigated Negative Declaration JO: 42-1105

Dear Ms. Lowry,

In accordance with California Public Resources Code (PRC) §21082.1(b) and California Code of Regulations (CCR) §15074 of the California Environmental Quality Act of 1970 (PRC §21000 et seq.), as amended, and the State guidelines thereto (CCR §15000 et seq.) I am taking this opportunity to comment on the Draft Mitigated Negative Declaration (DMND), distributed on 23 March 2004, for the Bay View Plaza project as proposed by the applicant Burgener - Clark, LLC.

The existing conditions within the proposed project area can be reasonably argued to be in a state of stagnation and disrepair, resulting in a less than aesthetically pleasing viewshed of the area and detracting from the overall character of the community of Bay Park. The project as proposed may go some lengths towards reconciling this situation. However, the project, as proposed, may bring into being certain impacts not adequately addressed in the Initial Study and DMND.

There are at least two interrelated impacts that have a bearing on the proposed project. The first concerns effects to traffic, which is discussed in the DMND and Initial Study. The second concerns social and economic impacts that may result from the project, which may cause a physical change on the environment, and are not considered within the DMND and Initial Study.

In the DMND the Initial Study relies upon a traffic study performed by Urban Systems Associates, Inc. (USA, Inc.), titled *Transportation Analysis for Bay View Plaza*, dated 5 March 2004 (not provided in the Initial Study or as associated document as distributed to the public). The Initial Study states that the driveway average daily trips (ADT) at present are 4,324, while the project, if adopted will generate 12,107 ADT, a 280% increase in overall daily traffic in an area already congested due to factors discussed below. The Initial Study correctly identifies that at present the road segment of Denver Street between Clairemont Drive and Ingulf Street, which serves as the main access corridor to the freeway or Mission Bay Park for the Bay Park community, is highly traveled, rating a Level of Service (LOS) of "F," which according to *Significance Determination Thresholds* of February 2004 for the City of San Diego, is below the recommended LOS for any intersection (City of San Diego 2004:66-67). The proposed mitigation measure for the anticipated impact resulting from the project, as proposed, is to establish a "center two-way left turn lane," which, according to USA, Inc., is expected to increase the roadway capacity (Initial Study No. 5540:7). This proposed mitigation measure is illustrated in Figure 7-2 of the USA, Inc. report. It is clear that the use of a "center two-way left turn lane" to facilitate traffic into and out of the east side driveway of the project area will, in fact, result in reducing capacity. Presently northbound traffic on Denver Street, between Ingulf Street and Clairemont Drive, "double stack" (two cars side by side in a single lane) the roadway with the "left lane" proceeding left onto Clairemont Drive and the "right lane"



## RESPONSE TO COMMENTS

1. either turning right onto Clairemont Drive or proceeding through the intersection along Denver Street. The proposed "center two-way left turn lane" will reduce this *de facto* two-lane northbound segment into a single-lane segment. The expected result will be a greater delay through the Denver and Ingulf Streets intersection and a concordant "stacking up" of vehicles on surface streets, particularly Denver and Ingulf Streets. This situation will be significantly exacerbated during weekday mornings between approximately 8:30 and 9:30 a.m. and weekday afternoons around 3:30 to 4:00 p.m. These time periods are when a substantial number of vehicles are used to drop off and pick up children attending Bay Park Elementary School. It cannot be determined by reading the USA, Inc. report whether or not traffic associated with the school was taken into consideration (studies were conducted in August 2002), and conversation with Mr. Kab of USA, Inc. (Kab pers. commun. 2004) revealed no additional information. If school related traffic was not measured during the study periods cited in the USA, Inc. report then existing traffic impacts on Denver and Ingulf Streets may be underreported. Additionally, according to the study by USA, Inc., traffic levels on Denver Street will increase well beyond its 8,000 vehicle rating to 11,520 vehicles during the "Existing + Pending + Project" phase (USA, Inc. Fig 8-2). Increased traffic is not mitigation it is an impact. The level of service of Denver Street is already well below standard, and it is unclear how increased traffic will result in an improved LOS rating.

2. Not considered in the DMND and Initial Study are impacts that may result from social or economic effects as a consequence of the project as proposed. The need to take into account significant effects on the environment resulting from social or economic effects is discussed in CCR 15131. This regulation states in part that projects that have economic effects that may result in physical effects have to be taken into consideration. A judicial ruling on this point is found in:

...*Citizens Association for Sensible Development of Bishop v. Inyo* (1985) 172 Cal.App.3d 151, [in which] the court held that 'economic or social change may be used to determine that a physical change shall be regarded as a significant effect of the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment.' In this case, the Court held that an EIR for a proposed shopping center located away from the downtown shopping area must discuss the potential economic and social consequences of the project, if the proposed center would take business away from the downtown and thereby cause business closures and eventual physical deterioration of the downtown (Bass, Herson, and Bogdan:252)

3. A last item not adequately addressed concerns the generation of odors that may affect sensitive receptors. While it is apparent from the proposed design considerations as seen in Figure 2 in the DMND that there are likely to be a variety of restaurants and fast food-type establishments the DMND states that there will be no negative effects to sensitive receptors (Initial Study III C. [p.3]). Additionally, the Initial Study does not state that any odor producing establishment will be required to meet any set standard, or pass inspection in order to obtain a permit. The lack of such citation makes it unclear as to how any future mitigation measures will be effective. In not offering mitigation measures for known potential effects mitigation will likely be enforced on a post-project basis. Post project mitigation measures are not appropriate within CEQA as defined in *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296.

1. Currently, Denver Street between Clairemont Drive and Ingulf Street has two lanes with on-street parking allowed. The capacity of this street is 8,000 Average Daily Trips (ADT). The project proposes to remove the on-street parking on Denver Street (while providing for the lost parking spaces on the project site) and restripe Denver Street with a two-way left turn lane, which would increase the overall capacity of the segment. The restriping would not preclude the stacking for left turns and through/right turns for the northbound traffic at Denver Street/Clairemont Drive intersection.

The potential traffic impacts of the proposed Bay View Plaza would be fully mitigated for with the improvements proposed on Denver Street, as recommended in the project's traffic study and stipulated in the MND.

2. Due to the relatively small size of the proposed project and its distance from downtown San Diego, there appears to be no nexus for applying the findings of *Citizens Association for Sensible Development of Bishop v. Inyo* (1985) 172 Cal. App. 3d 151 to Bay View Plaza. Bay View Plaza would comprise only a small part of a established commercial strip development now extending along Morena Boulevard, between Clairemont Drive and Tecolote Road.

Also, as indicated in the Clairemont Mesa Community Plan (as amended), commercially zoned sites within Clairemont Mesa are evenly distributed throughout this community. Since the project has been proposing to include some type of food market as a major tenant, it is not anticipated that Bay View Plaza would significantly alter the shopping habits of the adjacent Bay Park community to the point where the community and/or the nearby Clairemont Village Shopping Center area would experience socio-economic decline, leading to physical deterioration and non-revitalization. Further, the project is consistent with the North Bay Redevelopment Plan that was adopted in 1998 for the purpose of rejuvenating the area, and may serve as an impetus for the future upgrading of commercial/residential uses along Morena Boulevard, as well as other shopping areas in Clairemont.

3. Restaurants and fast-food establishments which may be tenants in Bay View Plaza would be permitted by the County of San Diego for their operations. Also, these businesses must comply with the Air Pollution Control District (APCD) regulations for the emissions of particulate matter (Rule 52) from, for example, outdoor grilling of food, as well as APCD's regulation for nuisance odors (Rule 51). Rule 51 states, "A person shall not discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to business or property."



Bass, Ronald E., Albert I. Herson, and Kenneth M. Bogdan

2000 *CEQA Deskbook*. Solano Press Books. Point Arena, California.

*City of San Diego*

2004 *Significance Determination Thresholds*. Development Services Department Land Development Review Division, Environmental Analysis Section. San Diego, California.

Kab, Sam P., II (USA, Inc. Traffic Engineer)

2004 Telephone conversation with Richard Shultz on 9 March 2004.

Urban Systems Associates, Inc. (USA, Inc.)

2004 *Transportation Analysis for Bay View Plaza*. Prepared for C.W. Clark, Inc. Final Report 5 March 2004. San Diego, California.



# RESPONSE TO COMMENTS

Present day Bay Park was subdivided in the late 1890s. In time a core community centered around a "downtown" area bounded by Morena Blvd., Napier, Chicago, and Ashton Streets. This area is still considered by the local community as a sort of village center, with its numerous storefront business and adjacent single-family residences. Bay Park residents can presently fulfill minor shopping needs within Bay Park, and for more important or substantial shopping needs can travel the short way up to the Clairemont Village Center Shopping area located at the corner of Burgener Blvd. and Clairemont Drive. Should the project, as proposed, be approved the addition of a large national-chain supermarket may not only result in increased traffic, as suggested in the traffic study, but also shift community focus away from already existing retail locations, such as those found in the Clairemont Village Center and central Bay Park. Furthermore, the project may in fact dissuade future revitalization efforts for certain areas of the Bay Park village, possibly leading to social and economic decline, and further concentrating travel to the proposed project area, resulting in increased traffic-related impacts. This issue is in need of further study.

It is not the intention of this letter to seek the termination of the redevelopment of the proposed project area. Rather, it is the intention to illustrate that the particular proposed project may have impacts that are in fact not mitigatable, as claimed within the DMND, and are in need of further environmental review (e.g. and Environmental Impact Review). The potential for substantial economic and social shifts to the community, and the resultant impact to traffic, as well as the unassessed impacts to sensitive receptors strongly argues for additional environmental review and/or project redesign. For example, redeveloping the project area with a more mixed-use focus (live-work) would result in less daily traffic to the area than that which would be drawn to a retail market, as planned. Additionally, the inclusion of residential use of the area would continue the pattern of the greater Bay Park area as a residential community with a core located in the heart of Bay Park, and not at the corner of Clairemont Drive and Denver Street. Drawing business away from community cores and already established retail centers should be considered undesirable. Promoting a live-work environment in the proposed project area and revitalizing the village core of Bay Park would be more in keeping with the City of Villages concept as envisioned by the City of San Diego.

Richard Shultz

Tom D'Amato  
2652 Deer Park  
SD CA 92110

4. Comment noted. Please see Response No. 2 above.

5. This project is subject to the City's Transit Oriented Development (TOD) Design Guidelines which encourages the inclusion of residential uses within mixed-use commercial/retail development sites. However, due to a substantial amount of residential development already existing within the vicinity of the project, City staff has determined that these existing residential uses satisfy the residential requirement of the TOD Design Guidelines for Bay View Plaza.



**From:** "Kluth, Chris" <ckl@sandag.org>  
**To:** <DSDEAS@sandiego.gov>  
**Date:** Mon, Apr 19, 2004 2:48 PM  
**Subject:** Project No. 5540

Dear Ms. Lowry,

Thank you for including SANDAG in your review process of the Draft Mitigated Negative Declaration for the Bay View Plaza PDP, SDP, and TM. We would like to note that the following issues should be considered for inclusion into the Draft document:

6. In the Traffic/Circulation/Parking section, under the Parking subheading, MTDB/SANDAG is seeking the designation of 50 shared parking spaces for transit patrons.

If you have any questions or need additional information, I can be reached at 619-699-1952.

Chris Kluth

San Diego Association of Governments

401 B Street, Suite 800

San Diego, CA 92101

Email: ckl@sandag.org

Phone: 619-699-1952

Fax: 619-699-1905

## RESPONSE TO COMMENTS

6. The City of San Diego, Development Services Department has determined that even though the project would be located adjacent to a future mass transit station on Morena Boulevard, it would not be a "regional" shopping center. Therefore, the project applicant would not be required by the City to provide shared parking for transit patrons of the future MTDB transit station. Should MTDB wish to pursue a shared parking agreement with Bay View Plaza to secure such parking for this future station, MTDB can pursue that directly with the project applicant.



City of San Diego  
Development Services Department  
LAND DEVELOPMENT REVIEW DIVISION  
1222 First Avenue, Mail Station 501  
San Diego, CA 92101  
(619) 446-5460

INITIAL STUDY  
Project No. 5540

SUBJECT: Bay View Plaza: PLANNED DEVELOPMENT PERMIT (PDP), SITE DEVELOPMENT PERMIT (SDP), and TENTATIVE MAP (Process 5) to develop an 88,270 86,770-square-foot, multi-use commercial/retail center with a 98,000 88,747-square-foot semi-subterranean parking garage, all on a 5.371-acre site. The project site is located just south of Clairemont Drive and east of Morena Boulevard. Demolition of all existing structures and improvements would be required prior to project construction. The project proposes the construction of five buildings, ranging in heights from one to three stories. The center would also incorporate a parking deck over the subterranean garage to provide additional on-site parking. The SDP would be required for project's exceedance of a 30-foot height limit. The PDP would be required for the project's encroachment into the 20-foot street setbacks. The site is zoned CC-1-3 and is located within the Clairemont Mesa Community Plan area, Community Plan Implementation Overlay Zone, Clairemont Mesa Height Limitation Zone (30 feet), (Lot 1 and portion of Lot 2 of West Clairemont Plaza, Map 3780). Applicant: Burgener-Clark, LLC.

UPDATE: Minor revisions to this document have been made when compared to the draft Mitigated Negative Declaration. These changes do not affect the environmental analysis or conclusions of this document. Revisions are shown in the ~~strikeout~~ (delete)/underline (addition) format.

UPDATE for January 10, 2005:

Minor revisions to this document have been made when compared to the final Mitigated Negative Declaration. These changes do not affect the environmental analysis or conclusions of this document. Revisions are shown in the ~~strikeout~~ (delete)/double underline (addition) format.

I. PURPOSE AND MAIN FEATURES:

The proposed project would allow the development of an ~~88,270~~ 86,770-square-foot, multi-story commercial/retail center over a ~~98,000~~ 88,747-square-foot semi-subterranean parking garage, on a 5.371-acre site (see Figures 1 and 2). The site is located just southeast of Clairemont Drive and Morena Boulevard. This development would first require the complete demolition of the existing structures and parking lot presently on-site. Project construction would occur in two phases as described below:

*Phase I*

The first phase of the project would construct ~~79,470~~ 77,970 square feet of commercial/retail space in a total of four buildings. ~~including a 48,000 square foot grocery store.~~ These buildings would range from one to three stories in height, over a ~~the 88,747-square-foot~~ semi-subterranean parking garage (see Figure 2). ~~A large portion of~~



The parking garage would be covered by an semi- at-grade, upper level, 89,686-square-foot parking deck.

The parking deck would be accessed from Clairemont Drive and Denver Street. This deck would have landscaped areas, street furniture, lighting, enhanced paving and public areas. Entry into the subterranean parking garage would be provided on Morena Boulevard and Ingulf Street, as well as by an access ramp on the northwestern end of the project's parking deck, adjacent to Clairemont Drive. Also, ~~the grocery~~ a store truck "service area" would be accessed from Ingulf Street through the lower parking garage to an enclosed truck well underneath the ~~grocery~~ major tenant no.1 building (see Figure 2).

## *Phase II*

The second phase of this project would remove the existing oil change and car wash facility (EZ Lube) on the northeastern corner of the site and construct 8,800 square feet of retail space in a single, two-story building (see Figure 2) and extend the parking garage. When completed, a total of ~~472~~ 496 parking spaces would be provided at the project site. (~~499 parking spaces are required, but 468 spaces needed per shared parking tabulation, see below under Parking).~~

The project site is zoned CC-1-3 (Commercial-Community) with zoning setback requirements along Clairemont Drive, Denver Street, Ingulf Street and Morena Boulevard at 20 feet. The proposed ~~grocery store and other~~ retail and restaurant buildings would encroach into this required 20-foot setback, thus requiring a Planned Development Permit (PDP) for this project. Also, as discussed below under Land Use, the project is subject to the Clairemont Mesa Height Limitation Zone (30-foot limit). The project would exceed this limit by approximately 14 feet on the northwestern portion of the site, thus requiring a Site Development Permit (SDP) for this project. Overall, the architectural elements of the project would include stucco, varied stone veneers, standing seam metal roofing, internally illuminated elevator towers, concrete column bases, canopies, storefronts, trellises, strong colors, sidewalks and plazas (see Figures 3 through 6).

## II. ENVIRONMENTAL SETTING:

The project site is located on a 5.371-acre site within the Clairemont Mesa Community Plan area. The site is bounded by Clairemont Drive to the north, Denver Street to the east, Ingulf Street to the south, and Morena Boulevard to the west. The site is entirely developed with commercial/retail structures that were constructed in 1959 and a large at-grade parking lot. These structures include a one-story thrift store, former restaurant, bar/shops, and a Jack-in-the-Box restaurant. The northeastern corner of the site is occupied by an automobile oil change and car wash facility. Land uses surrounding the project site include multi-family residential and a service station to the north, commercial uses and a church to the east, single and multi-family residential and commercial uses to the south, and Interstate 5 and Mission Bay to the west. A future trolley station is planned for by the Metropolitan Transit Development Board (MTDB) on the west side of Morena Boulevard, across from the project site to the west.

The project site gently slopes downward in an east to west/southwest direction, with the topographic elevations ranging from approximately 65 above Mean Sea Level (MSL) to 25 above MSL, respectively. The site is also zoned CC-1-3 (Commercial-Community) which is intended to accommodate development with an auto orientation. The purpose of the CC zone is to allow *community-serving commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale.* As discussed further below, the project site is located within the Clairemont Mesa Community Plan area,



Community Plan Implementation Overlay Zone, and Clairemont Mesa Community Height Limitation Zone (30 feet). It is also subject to the Transit Oriented Development Design Guidelines.

III. ENVIRONMENTAL ANALYSIS: See attached Initial Study checklist.

IV. DISCUSSION:

The reports referenced below are available for review in the office of the Land Development Review Division (LDR) of the Development Services Department (DSD), 1222 First Avenue, 5th Floor, San Diego, CA 92101.

**The following environmental issues were considered during review and determined to be significant or potentially significant.**

#### **Paleontological Resources**

The project site is underlain with the geologic Bay Point Formation (Qbp) which is a nearshore marine sedimentary deposit of late Pleistocene age. Typical exposures of this formation consist of light gray, friable to partially cemented, fine- to coarse-grained, massive and cross-bedded sandstones. The formation is generally exposed at sea level, so its thickness and relationship with underlying formations is unknown.

The Bay Point formation has produced large and diverse assemblages of well-preserved marine invertebrate fossils, primarily mollusks. However, remains of fossil marine vertebrates (i.e. sharks, rays, and bony fishes) have also been recovered from this rock unit. Based upon the occurrence of these fossils, the Bay Point formation is assigned a high paleontological resource sensitivity. Therefore, should the project excavate in excess of 1,000 cubic yards of earth material and 10 feet or more in depth, according to the City's Significance Determination Guidelines, paleontological monitoring would be required during project grading activities.

The project proposes to grade 25,000 cubic yards of earth material to a maximum depth of 16 feet. Paleontological monitoring would, therefore, be required during grading activities by a qualified paleontologist in accordance with the Mitigation, Monitoring and Reporting Program (MMRP) included in the above MND. Implementation of the MMRP would lessen potential impacts created by the project to paleontological resources to below a level of significance.

#### **Human Health/Public Safety**

An environmental assessment report entitled, *Update Phase I Environmental Assessment for Bay View Plaza Site*, dated June 2003, was prepared by Robert Prater Associates for the project site and adjacent properties. The scope of work for this assessment included the following: 1) a review of the previous work performed for the subject property (December 2001 Phase I Environmental Assessment), 2) review of readily available public records regarding known hazardous materials incidents/usage in the area, 3) a surface reconnaissance of the site and adjacent parcels to aid in evaluating the current potential for subsurface hazardous waste impairment to the property, and 4) the preparation of this updated Phase I environmental assessment report.

The site reconnaissance was performed on June 18, 2003 of the project site and vicinity. At the time, the only remaining tenants on-site consisted of Action Thrift Store, Jack-in-the-Box, the Blue Bayou Lounge and EZ Lube. The Best Western Motel adjacent to the



site, exists as well. New and used motor oil, antifreeze, and other automotive lubricants/fluids are handled and stored at the EZ Lube facility on-site at 2585 Clairemont Drive. None of the other remaining tenants typically handle or store significant quantities of hazardous materials or petroleum products in connection with their operations. During the reconnaissance of the project site, there was no evidence of underground tanks, stained soils, seeps, distressed vegetation, or other unusual conditions observed that would indicate a significant environmental concern to subsurface soil and/or ground water conditions beneath the site. A previously reported underground waste oil tank at the EZ Lube facility was removed under permit with the County of San Diego Department of Environmental Health (DEH) during December 2002.

According to the 2003 report, the neighboring properties are essentially the same as previously indicated in the December 2001 report. The Unocal service station north of the site, across Clairemont Drive, operates underground fuel and waste oil storage tanks and performs automotive repairs at their facility. The Shell gas station northeast of the site, across the intersection of Clairemont Drive and Denver Street, currently operates underground fuel storage tanks only. During the 2003 reconnaissance of adjacent properties, no evidence of negligent hazardous materials or petroleum products handling, storage, or disposal practices from exterior vantages was observed. These nearby gas stations are permitted and regulated by the County of San Diego DEH for handling hazardous materials and/or petroleum products.

Also based on the 2003 report, a review of certain public records and information sources regarding hazardous materials storage and/or incidents in the area was conducted. A computer database environmental records search was performed, including review of the National Priorities List, Resource Conservation and Recovery Act List, the State's Hazardous Wastes and Substances Sites List, Department of Toxic Substances Control CALSITES list, State Water Quality Control Board Leaking Underground Storage Tanks list, County of San Diego DEH Site Assessment Listing, County of San Diego DEH Hazardous Materials Management Division operating permits and inspection records listings (HE58 and HE1790).

A total of 27 sites with known locations and 4 sites with unknown locations were identified in this data within one mile of the project site. However, none of the businesses/facilities at the project site were identified in any of the data sources as a suspected or known unauthorized release site. The EZ Lube facility is listed as a business which is permitted with State and local regulatory agencies for handling and storing hazardous waste and petroleum projects. The previous underground storage tank removal at EZ Lube in December 2002 was assigned a "Tank Closure Complete - No Further Action Required" status to the tank removal permit. The nearby Shell and Unocal gas stations both had tank/contaminated soil releases which have subsequently reached a "Case Closed" status. The Thrifty station located approximately 500 feet south-southwest (down gradient) of the project site has a tank/contaminated soil and ground water release that is still listed as "Preliminary Assessment." However, based on the distance and direction of the Thrifty station from the project site, the Thrifty station release is not considered to be a significant concern to the project. Overall, the results of the updated research and reconnaissance revealed no significant concerns with respect to the current potential for hazardous waste or petroleum products impacting the subsurface soil or ground water conditions beneath the project site.

Further, due to the ages of the existing structures located on the project site that are proposed for demolition, they may contain asbestos and lead-based paint which have the potential to significantly impact human health and safety. It would be advisable that prior to demolition activities, proper testing of these structures should be done. If the testing



shows the presence of asbestos or lead-based paints, then proper precautions must be made during the removal and disposal of asbestos or lead-based paint containing materials, as regulated by state agencies (Cal-OSHA and Cal-EPA) and San Diego Air Pollution Control District and the County of San Diego Department of Health Services, to ensure that no hazards to the demolition crew, adjacent residents, or other individuals are created by toxic materials. Demolition activities must be conducted in accordance with Cal-OSHA and Cal-EPA regulations regarding the removal and disposal of asbestos-containing materials and lead-based paints. Thus, implementation of mitigation concerning asbestos and lead-based paint removal, as included within Section V. of the MND, would reduce human health and public safety impacts to below a level of significance.

## **Noise**

### *Noise at the Project Site*

An acoustical study was prepared for this project entitled, *Acoustical Analysis Report, Bay View Plaza*, by Douglas Eilar & Associated, dated March 26, 2003, as well as the *Addendum to the Acoustical Analysis Report for Bay View Plaza*, dated June 27, 2003. According to this report, the project site is exposed to noise from automobile and truck traffic, predominantly on Clairemont Drive, Morena Boulevard, and nearby I-5. The existing traffic noise level at the project site's western property line is approximately 73.5 dB(A) Community Noise Equivalent Level (CNEL). The future (year 2020) traffic noise level at the same point has been calculated to be approximately 74.3 dB(A)CNEL, due to the projected increase in traffic volume on the nearby roadways. The project site is also subjected to train noise associated with operations of the nearby coastal railway, located between Morena Boulevard and I-5. The project site is impacted by a railroad corridor noise level of approximately 66 dB(A)CNEL at the western property line.

All of the proposed outdoor use areas within the project site would be exposed to noise levels at or below the City of San Diego exterior noise limit of 75 dB(A)CNEL for commercial properties. The project building interiors, however, would be impacted by exterior noise levels above 65 dB(A)CNEL; therefore, a more thorough analysis of exterior-to-interior sound attenuation would be necessary when the finalized building plans become available, to ensure that interior noise levels do not exceed 50 dB(A)CNEL for commercial uses.

### *Project Noise at Adjacent Properties*

#### *Vehicle Traffic to and from the Project*

Based on the acoustical report, the project-related traffic volumes would be 2% of the future traffic volume along Clairemont Drive and 6% of the future traffic volume along Morena Boulevard. This corresponds to an insignificant increase in overall vehicular traffic noise.

#### *Noise from Project Parking Areas*

Noise from project-related vehicle traffic would be localized on-site at the driveway entrance/exit and within the proposed parking lots. On-site traffic noise measurements taken at similar parking areas are typically less than 50 dB(A)Leq (hourly). Vehicle noise within the parking garage would be attenuated by the walls of the garage and would be insignificant at the adjacent property lines.



### *Roof-Mounted Ventilation*

The project site's southern property line is adjacent to both single and multi-family residential and commercial properties, across Ingulf Street. Project generated noise sources which could potentially affect these properties would include roof-mounted mechanical ventilation, truck deliveries, and trash pickup (including truck exhaust and backup alarms). According to the acoustical report, there would be outdoor installation of air conditioning condenser units and kitchen exhaust ventilation fans on the roof of buildings (1 through 5), and in a roof-mounted 110-foot by 40-foot pre-assembled, enclosed mechanical equipment unit on the southeast corner of the ~~grocery store~~ building to be occupied by major tenants no's. 1 and 2. Roof-mounted mechanical equipment has a potential for noise, if not properly located or if the building is improperly designed. No specific types, locations, or number of units of equipment has been identified yet for this project. Therefore, prior to the issuance of any building permits for this project, submittal of further acoustical analysis by the applicant would be required to mitigate any significant noise impacts from this equipment on adjacent properties, to the satisfaction of the City Engineer. This mitigation measure is included in Section V. MMRP of the MND for this project.

### *Outdoor Use Areas*

According to the acoustical report, there would be approximately ~~five~~ seven outdoor use areas on-site, designated as patios, plazas, and decks, intended mainly for public outdoor dining and employee break areas. The noise generated by the use of these areas would be insignificant at the neighboring properties, due to limited angles of view and the much greater level of vehicle traffic noise in the area.

### *Truck Delivery Noise at the Loading/Unloading Dock*

Noise levels due to delivery trucks entering and exiting the semi-subterranean loading dock area on Ingulf Street would occur through exhaust noise and backup alarms. According to the acoustical report, typical exhaust noise from a modern delivery/freight vehicle engine at full operating RPM, under load is less than 70 dB(A)Leq at 50 feet. The height of the exhaust noise source ranges from less than three feet (for standard trucks) to 10 feet (for tractor-trailers). Also, for safety purposes, most delivery vehicles are equipped with backup alarms. Typical backup alarm noise level is 82.0 dB(A) or less at 25 feet and 76.0 dB(A) or less at 50 feet. The alarm unit produces a highly directional noise, emitted towards the rear of the truck.

According to the addendum to the acoustical report, the expected noise levels due to delivery trucks entering and exiting the semi-subterranean loading lock on Ingulf Street would be attenuated by the upper parking deck. This deck would shield the nearest residential property lines from noise due to truck exhaust and backup alarms for a portion of the expected truck route. There is only room for two heavy trucks at a time in the proposed loading dock, and the equivalent hourly noise level of two heavy trucks (worse case basis) per hour would be 54.9 dB(A)Leq at the first-story residential receiver and 54.6 db(A)Leq at the second-story receiver. This is slightly below the allowable nighttime property line limit of 55 dB(A)Leq, and no mitigation would be required.

### *Trash Pickup*

The hourly average noise level at the nearest residential property lines from trash pickup would exceed the City's noise limits by approximately one decibel. To lessen this slight exceedance, trash pickup service would be limited to a maximum of once per day,



between the hours of 7 a.m. and 7 p.m., and made a condition of their discretionary permit.

### **Solid Waste**

The 1989 California Integrated Solid Waste Management Act (also known as Assembly Bill 939), requires each city in the state to divert at least 50 percent of its solid waste from landfill disposal through source reduction, recycling, and composting by 2000. In continuing to comply with AB 939, the City is considering any construction/demolition project meeting or exceeding the commercial development of 40,000 square feet, to have a potentially significant impact on solid waste facilities. The proposed project would construct an ~~88,270~~ 86,770-square-foot commercial/retail development over a subterranean garage after demolition of 37,300 square feet of existing buildings and a paved parking lot. The proposed project would, therefore, have a potential impact on solid waste facilities in both the pre- and post-construction phases of the project. Mitigation measures are required in Section V. of the MND to mitigate these potential impacts to below a level of significance. The mitigation would include the preparation of a Waste Management Plan (WMP) by the project applicant to be submitted to both the City's Environmental Services Department and the Mitigation Monitoring Coordination section. The WMP would include information on the tons of waste to be generated, source separation techniques, on-site reuse, landfill facilities, reduction of construction/demolition debris goals, and recycling goals.

### **Traffic/Circulation/Parking**

#### *Traffic/Circulation*

A traffic study was prepared for this project entitled, *Transportation Analysis for Bay View Plaza*, dated March 12, 2004, by Urban Systems Associates, Inc. According to this study, the existing shopping center generates 4,324 driveway average daily trips (ADT) while the proposed project would generate 12,107 ADT, an expected increase of 7,783 ADT. Also, the existing shopping center generates 3,527 cumulative ADT, while the redeveloped center would generate 8,219 ADT, an increase of 4,692 ADT.

Based on an evaluation of Existing, Existing plus Other Pending Projects, Existing plus Other Pending Projects plus Project, and Horizon Year conditions, it has been concluded that through buildout, all street segments evaluated are expected to operate at level of service "D" or better, except Denver Street between Clairemont Drive and Ingulf Street, at LOS "F". Two segments were found to have possible project impacts:

Denver Street between Clairemont Drive and Ingulf Street

Ingulf Street between Morena Boulevard and Denver Street

The Denver Street segment between Clairemont Drive and Ingulf Street is at LOS "F" under existing conditions, without the project. Prohibiting parking and re-striping for a center two-way left turn lane would increase the roadway capacity, provide acceptable LOS, and mitigate project impacts to below a level of significance. The four existing parking spaces which would be lost on the west side of Denver Street would be replaced on the project site.

The Clairemont Mesa Community Plan classifies Ingulf Street as a two-lane collector, with the expected Horizon Year traffic volumes, and with no recommendations for roadway improvements. The intersections on Ingulf Street at Morena Boulevard and at



Denver Street are expected to operate at LOS "B" through the Horizon Year, so that the Ingulf Street segment between these intersections is also expected to operate acceptably. Therefore, the potential project impact is considered less than significant.

All study area intersections are expected to operate acceptably at LOS "D" or better through the Horizon Year. Project traffic impacts at intersections are expected to be less than significant so that no project mitigation at intersections would be warranted. Further, potential project impacts to the I-5 freeway mainlines were found to be less than significant, as well as the potential impacts to the I-5/Clairemont Drive on-ramp meters.

### *Parking*

As discussed above, the project includes two levels of parking. The lower level would have access driveways on Ingulf Street and on Morena Boulevard (right-in-out-only). A ramp would connect the lower and upper parking areas. The upper level would have access on Clairemont Drive (right-in-out-only) and on Denver Street. The parking requirements have been calculated using "Transit Area" parking rates. ~~Phase I construction would provide all the proposed spaces. The total required parking with Phase II parking is was 499 spaces. However, the project has been reduced by 1,500 square feet, which has reduced the parking requirement to 492 spaces. The project proposes to provide 496 spaces, which would~~ With shared parking common to retail, office, hotel, and restaurant uses, only 468 spaces would be needed, but 472 total spaces would be provided, including four extra spaces to account for four on-street parking spaces that would be removed on Denver Street adjacent to the existing hotel.

### *Pedestrians*

On-site pedestrian walkways would be provided, including ~~an~~ elevators between the upper and lower parking levels. A pedestrian plaza would be provided at the Morena Boulevard/Ingulf Street intersection, directing pedestrians to the future MTDB Transit Station on Morena Boulevard. Fronting sidewalks along Denver Street and Ingulf Street would be a minimum of five feet. The Clairemont Drive and Morena Boulevard sidewalks would be ten feet in width and would conform to the widths recommended in the Clairemont Mesa Community Plan.

**The following environmental issues were considered during review and determined not to be significant.**

### Land Use

#### *Clairemont Mesa Community Plan*

The project site is located within the Clairemont Mesa Community Plan area and is designated as General Commercial. The Plan's objectives for commercial development within this community include, "Revitalize the commercial area along the southern portion of Morena Boulevard and improve both vehicular and pedestrian access along the Boulevard." It also states, "Design commercial areas to best utilize the existing transportation system and provide pedestrian linkages to and within commercial development as well as connections to adjacent uses." The propose project is consistent with the objectives of the community plan and particularly in creating vehicular and pedestrian access that would provide linkages to surrounding development.



### *Community Plan Implementation Overlay Zone*

The Clairemont Mesa Community Plan was amended to include a recommendation that the West Clairemont Plaza (former name of project site) be subject to the Community Plan Implementation Overlay Zone:

"The Community Plan Implementation Overlay Zone Type B should apply to the West Clairemont Plaza Shopping Center to ensure that redevelopment of the site is compatible with adjacent residential development, supports use of the future Mid-Coast transit line, enhances the community image, and offers commercial services that are walkable to the surrounding community. The site should be developed with a first class retail and professional center. The existing center is characterized by older structures, underutilized parking areas, poor landscaping, and a lack of walkways to and from residential neighborhood and throughout the site. Transit services are poorly integrated into the site."

The Plan's recommendation also states, "Development should occur with a unifying architectural, signage, and landscaping theme and comprehensive pedestrian and bicycle pathways. Development should capitalize on the site's topography. The rise in elevation should be used to provide below-grade parking, capture views, and reduce apparent building mass. Buildings should terrace down the slope. Great sensitivity should be exercised to minimize view obstruction. Development along the Morena Boulevard frontage should be pedestrian-friendly, with building entrances and windows oriented to the street. A direct pedestrian connection should be made to the future trolley station. Landscaping should link the shopping center with the transit station."

The proposed project is consistent with the recommendations of the Community Plan Implementation Overlay Zone. The project would also have a 10-foot-wide sidewalk along Morena Boulevard to enhance the pedestrian walkway to the future trolley station. The pedestrian plaza proposed at the corner of Morena Boulevard and Ingulf Street would be an appropriate access point for the future trolley station as well.

### *Height Limitation Zone*

In 1989, the City Council adopted a 30-foot height limit for almost all of Clairemont Mesa. The height limit is intended to maintain the low scale character of development in the community and to preserve public views of Mission Bay and the Pacific Ocean from western Clairemont. This ~~county~~ community-wide height limit replaced the West Clairemont Height Limitation Overlay Zone which applied only to a portion of the community. The proposed project would be exceeding the 30-foot height limit by approximately 14 feet on the northwestern portion of the site. A deviation from this 30-foot height limit requires a Site Development Permit (SDP) in accordance with the City's Land Development Code.

### *Transit Oriented Development*

The project is subject to the City of San Diego Transit-Oriented Development (TOD) Design Guidelines because the property lies adjacent to a future station of the Mid-Coast



LRT Extension and falls within an LRT corridor. Even though residential use on the project site is not being required on the project site per TOD Design Guidelines, due to the existence of adjacent residential uses, it is imperative that the design of the proposed project relate well to the existing development in order to encourage pedestrian travel from these adjacent areas. The project strives to achieve this, particularly with the plaza area provided at Morena Boulevard and Ingulf Street as a main entryway to the future LRT station across Morena Boulevard. Also, the rear wall of the large building to be occupied by major tenants no's. 1 and 2 adjacent to Ingulf Street, has been redesigned to more adequately interface with the residential uses to the south and to foster pedestrian comfort.

### **Geology and Soils**

The project site is located south of and in alignment with the active Rose Canyon Fault Zone (Zone 12 on the City's Seismic Safety Study Geologic Hazard Maps). A *Geologic Investigation Update Letter, Bay View Plaza*, was prepared by Robert Prater Associates, dated March 17, 2003. This indicated that they previously performed a geologic investigation for the project site and presented it in a report dated November 12, 1998, and that the conclusions of that investigation are still applicable. This geologic investigation, specifically a fault study, determined that the site is underlain by potentially active faults, and that no structural setback is required for the proposed project. Because the faults are considered potentially active and not inactive, the property owner would be required to sign and record a "Notice of Geologic Conditions" with the County Recorder as a condition of the project's discretionary permit prior to issuance of construction permits.

### **Water Quality**

To address current water quality requirements for the project site, an evaluation of potential water quality impacts associated with the project was included in the report entitled, *"Preliminary Water Quality Technical Report for Bay View Plaza, dated June 2003*, and prepared by Latitude 33 Planning and Engineering. The project is located within the Penasquitos Hydrologic Unit (HU 906.00) as defined by the Water Quality Control Plan for the San Diego Basin (9). The Penasquitos Hydrologic Unit is a triangular-shaped area of 170 square miles extending from Poway on the east to La Jolla on the west. The project site specifically lies within the Miramar Hydrologic Area (HA 906.40).

Downstream from the project site is Mission Bay, an impaired water body as indicated on the "2002 CWA Section 303(d) List of Water Quality Limited Segment", Mission Bay, (Cal Water Watershed 90640000) which has the following pollutants listed with a TMDL Priority classification:

Bacteria Indicators, TMDL Priority – Medium  
Eutrophic, TMDL Priority – Low  
Lead, TMDL Priority – Low

According to the water quality technical report, the proposed project could impact water quality in both the short- and long-term. Short-term impacts would occur during



construction. Long-term impacts would be related to the subsequent uses proposed for the site. Based on the City's Storm Water Standards, the "anticipated" and "potential" pollutants generated from the proposed land uses on the project site include the following:

**Anticipated**

- Trash and Debris
- Oil and Grease

**Potential**

- Sediments (1)
- Nutrients (1)
- Organic Compounds (5)
- Oxygen Demanding Substances (5)
- Bacteria and Viruses (1)
- Pesticides (5)

- (1) A potential pollutant of landscaping exists on-site.
- (2) A potential pollutant if project includes uncovered parking areas.
- (3) A potential pollutant if project involves food or animal waste products.
- (4) Including petroleum hydrocarbons.
- (5) Including solvents.

*During Construction*

The project would be designed to include the most current Best Management Practices (BMP's) relating to construction activity. BMP's to be used include the following: specific vehicle maintenance areas; material storage areas; equipment storage areas; waste containment areas; concrete washout areas; erosion/sediment control BMP's (e.g. bonded fiber matrix, fiber rolls, silt fence, mulching, gravel bag chevrons, and gravel bag inlet projection); offsite sediment control (e.g. stabilized construction entrances); and, energy dissipation. Erosion control plans with notes and locations of BMP's are part of the final project grading plans.

*Post-Construction BMP's*

The project has been designed to control post-development storm water runoff discharge rates and velocities to maintain or reduce pre-development erosion by applying the following concepts: reducing impervious areas to a minimum amount allowed by the City's expected density and required fire access throughout the project; reducing hardscape areas to a minimum required to make pedestrian access functional; and landscaping and irrigating all graded slopes and natural areas.

Further, pollutant source control BMP's have been designed into the project to include the following: storm drain stenciling and tiling; trash pick up by a waste management company at a minimum of once a week (trash enclosures would be covered); landscaped and irrigated slopes; and, parking lot sweeping on a weekly basis. Treatment control BMP's have also been designed into the project to provide treatment of the first flush



runoff from the site. These BMP's would include a fossil filter system to be installed in the inlets located within paved areas of the site capturing the runoff.

Overall, implementation of both the pre- and post-construction BMP's would reduce impacts to water quality by the project to below a level of significance. Therefore, no mitigation requirements for the purposes of this document would be required.

### Historical Resources

City staff determined through review of the City's archaeological resource maps (area was identified as not being within the historical sensitivity zone) and through a site visit by City staff that the project site has a very low potential for prehistoric archaeological resources. The property has been greatly disturbed from earth moving activities, construction, landscaping, and paving, that occurred during the development of the existing shopping center.

The present commercial/retail structures were constructed in 1959 with a large at-grade parking lot. Under CEQA, these structures are not considered to be potentially historic because they do not embody distinctive characteristics of a style, type, period or method of construction or are a valuable example of the use of indigenous materials or craftsmanship. These structures are not representative of a notable work of a master builder or architect, nor are they associated with an important person or event. Therefore, no potential impacts would result to prehistoric or historic resources from the proposed project, thus no mitigation measures would be required.

### V. RECOMMENDATION:

On the basis of this initial evaluation:

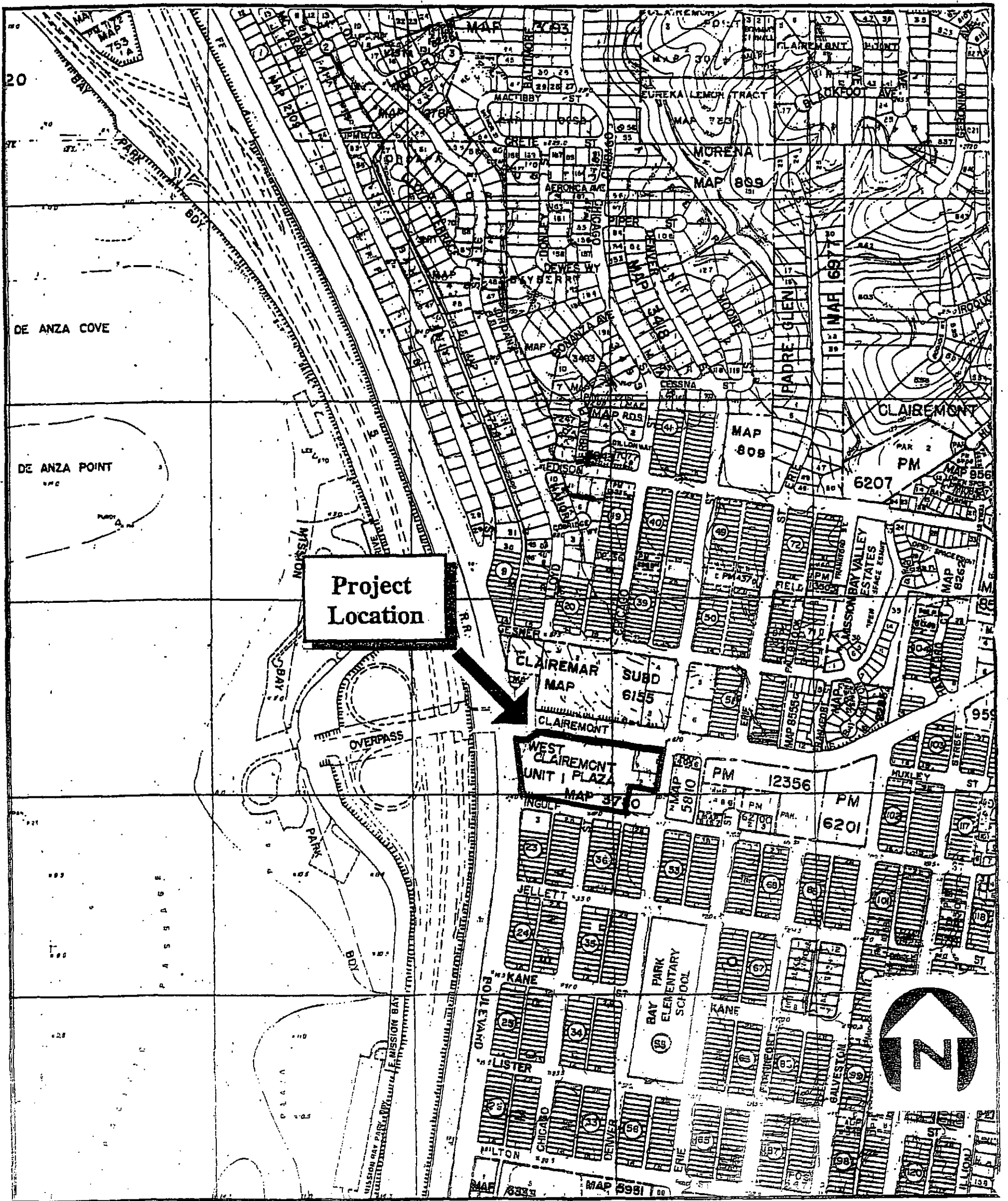
- ☐ The proposed project would not have a significant effect on the environment, and a NEGATIVE DECLARATION should be prepared.
- ☒ Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in Section IV above have been added to the project. A MITIGATED NEGATIVE DECLARATION should be prepared.
- ☐ The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT should be required.

PROJECT ANALYST: Lowry

### Attachments:

- Figure 1 Location Map
- Figure 2 Site Plan (Phases 1 and 2)
- Figure 3 Elevations - Clairemont Drive
- Figure 4 Elevations - Market Entrance
- Figure 5 Elevations - Morena Boulevard
- Figure 6a Elevations - Ingulf Street
- ~~Figure 6b Elevations - Ingulf Street~~





Bay View Plaza



## Location Map

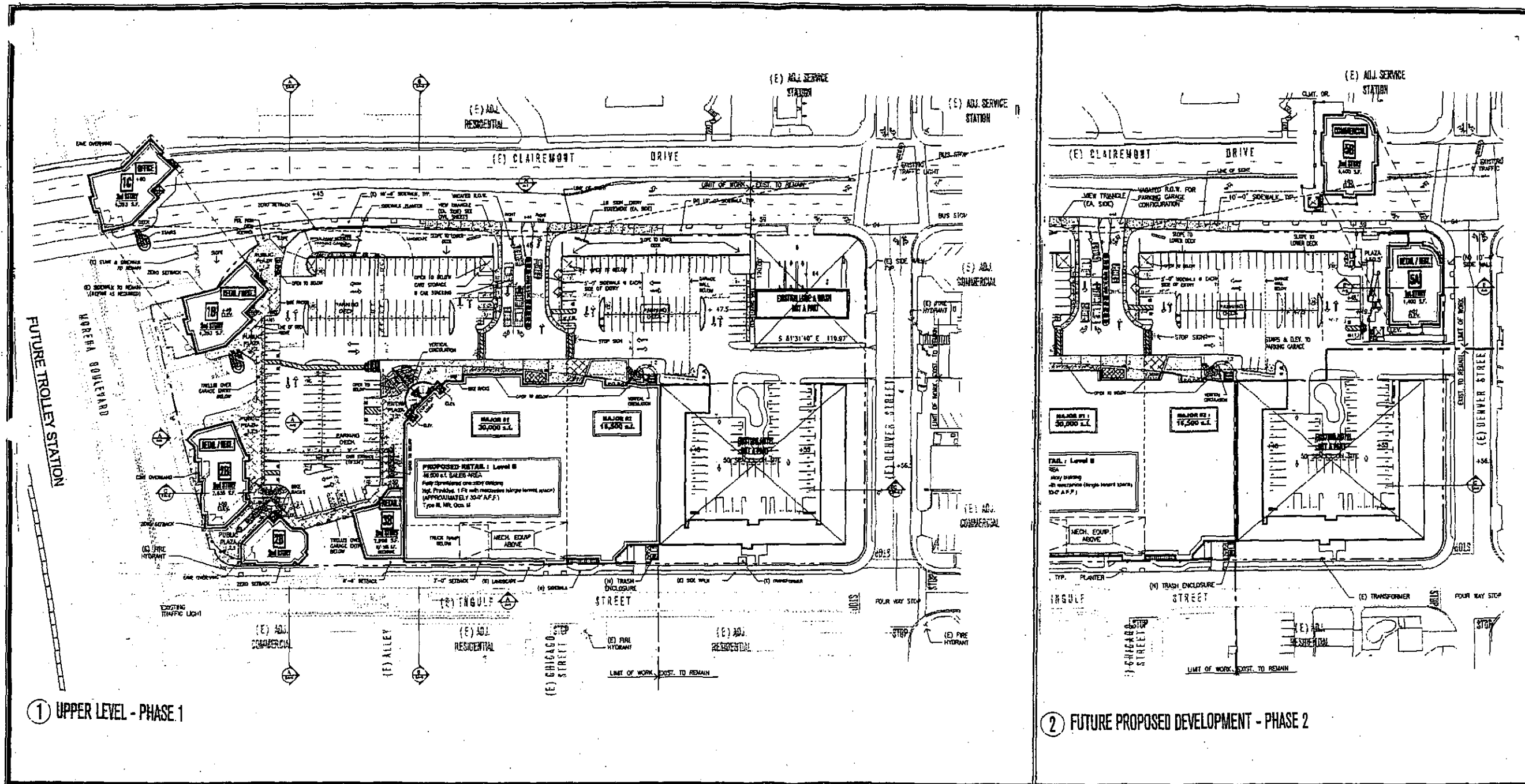
Environmental Analysis Section Project No. 4952

CITY OF SAN DIEGO - DEVELOPMENT SERVICES

Figure

1





Bay View Plaza



# Site Plan

Environmental Analysis Section

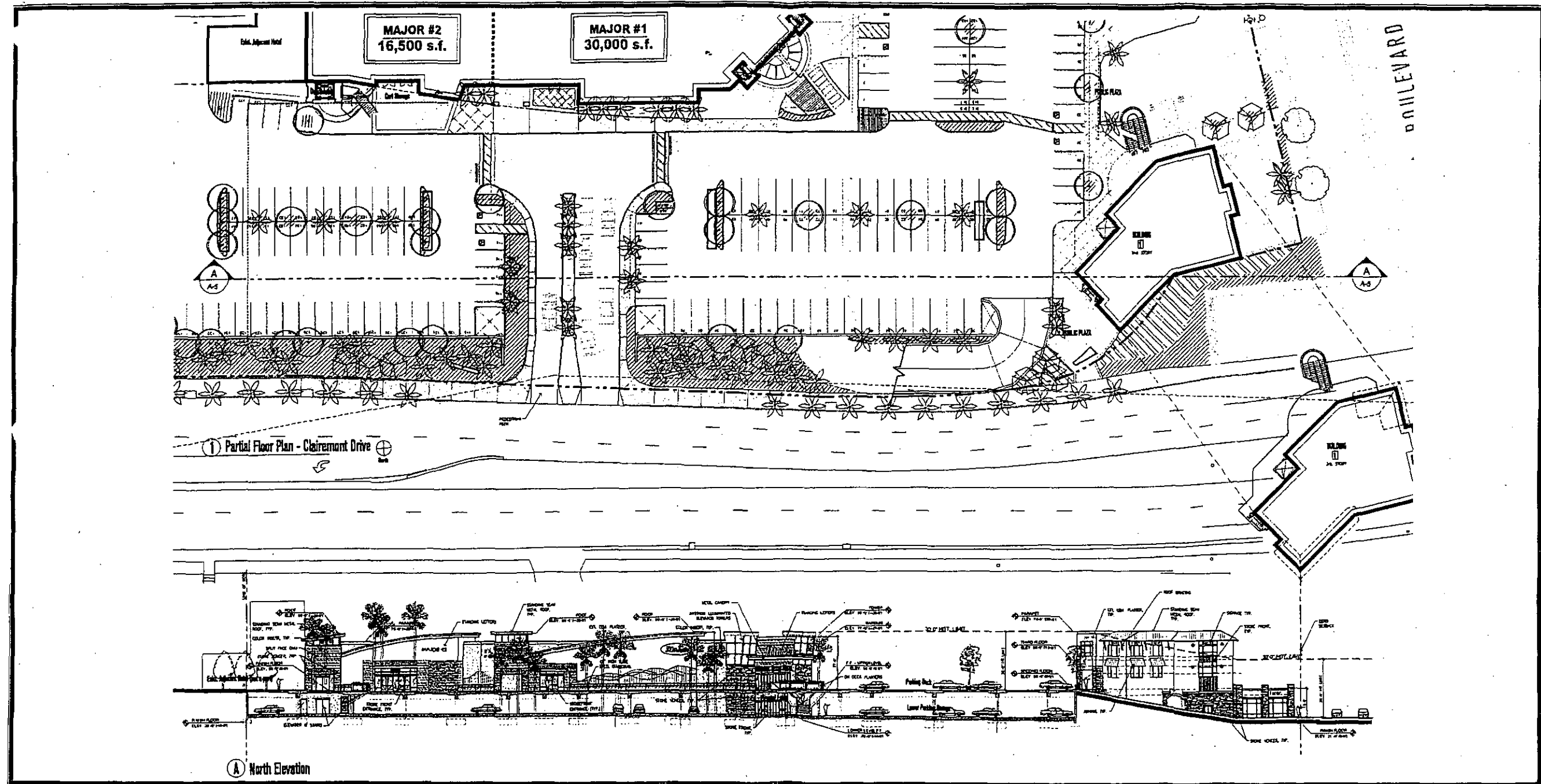
Project No. 4952

CITY OF SAN DIEGO • DEVELOPMENT SERVICES DEPARTMENT

Figure

2





Bay View Plaza



## Elevations – Clairemont Drive

Environmental Analysis Section

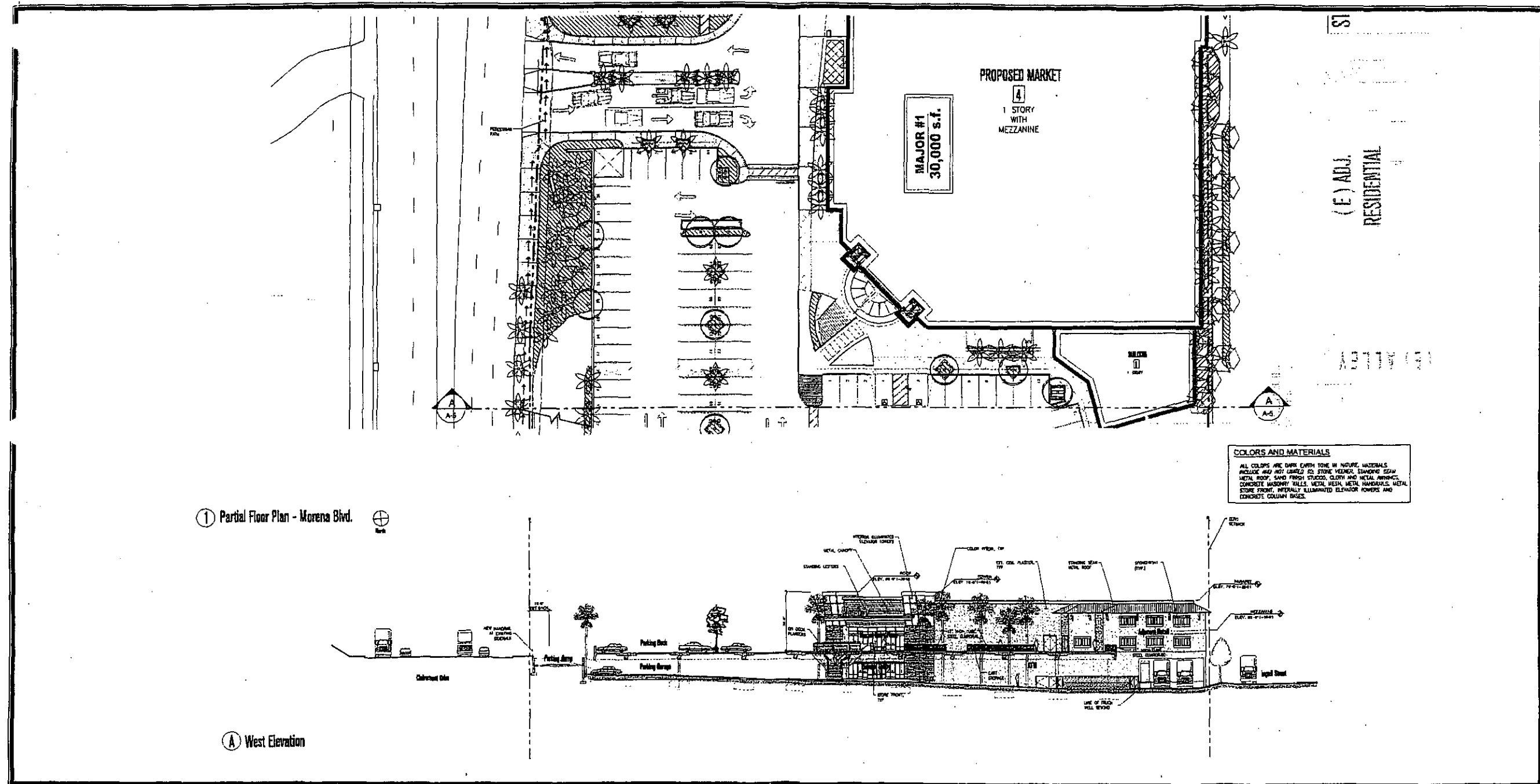
Project No. 4952

CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT

Figure

3





### Bay View Plaza



### Elevations – Market Entrance

## Environmental Analysis Section

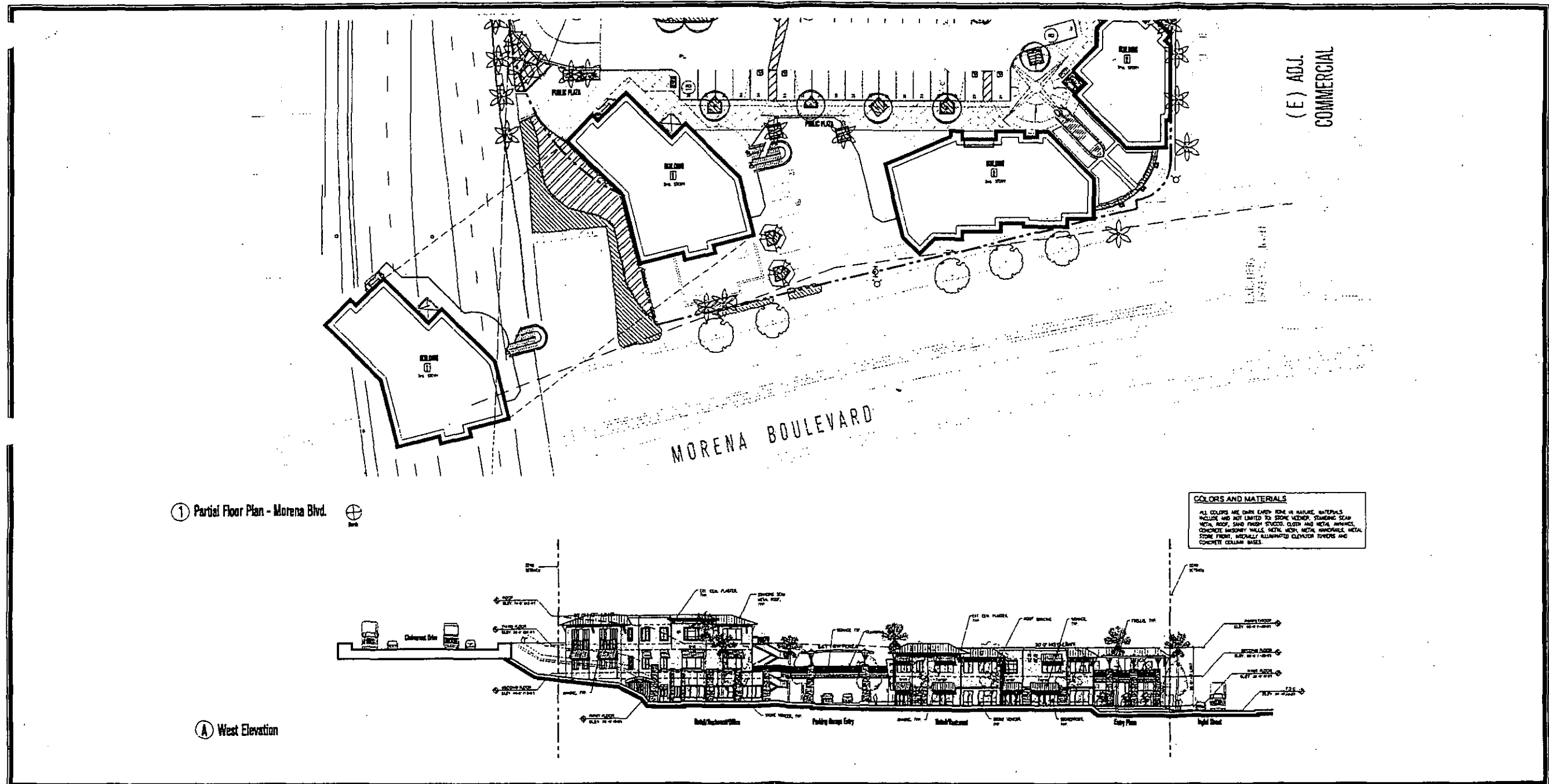
**Project No. 4952**

CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT

**Figure**

4





Bay View Plaza



## Elevations – Morena Boulevard

Environmental Analysis Section

Project No. 4952

CITY OF SAN DIEGO · DEVELOPMENT SERVICES DEPARTMENT

Figure

5







Initial Study Checklist

Date: June, 2003

LDR No.: 42-1105

Name of Project: Bay View Plaza

III. ENVIRONMENTAL ANALYSIS:

The purpose of the Initial Study is to identify the potential for significant environmental impacts which could be associated with a project pursuant to Section 15063 of the State CEQA Guidelines. In addition, the Initial Study provides the lead agency with information which forms the basis for deciding whether to prepare an Environmental Impact Report, Negative Declaration or Mitigated Negative Declaration. This Checklist provides a means to facilitate early environmental assessment. However, subsequent to this preliminary review, modifications to the project may mitigate adverse impacts. All answers of "yes" and "maybe" indicate that there is a potential for significant environmental impacts and these determinations are explained in Section IV of the Initial Study.

Yes      Maybe      No

I. AESTHETICS / NEIGHBORHOOD CHARACTER - Will the proposal result in:

- A. The obstruction of any vista or scenic view from a public viewing area?  
The project is located in the Clairemont Mesa Height Limit Overlay Zone (30') and would exceed the 30' limit. A Site Development Permit is required.

—      X      —

- B. The creation of a negative aesthetic site or project?  
The project would enhance the community's image with aesthetically pleasing and unifying architectural style, with complementing landscaping that would contour with site's gentle slope.

—      —      X

- C. Project bulk, scale, materials, or style which would be incompatible with surrounding development?  
See I. B.

—      —      X

- D. Substantial alteration to the existing character of the area?



Yes      Maybe      No

character of the area?

The project would be a commercial use replacing older commercial development and would enhance the existing character of the area.

—      —      X

- E. The loss of any distinctive or landmark tree(s), or a stand of mature trees?

No such distinctive or landmark trees exist on-site.

—      —      X

- F. Substantial change in topography or ground surface relief features?

The effective grade of the site would remain basically the same, although the site would be developed with an underground parking garage.

—      —      X

- G. The loss, covering or modification of any unique geologic or physical features such as a natural canyon, sandstone bluff, rock outcrop, or hillside with a slope in excess of 25 percent?

The site has been previously graded and no such features are located on-site.

—      —      X

- H. Substantial light or glare?

The project would not include highly reflective surfaces and outdoor lighting would be shielded and operated in accordance with city standards.

—      —      X

- I. Substantial shading of other properties?

Project involves construction of two and three-story buildings similarly to other buildings within the surrounding development; no substantial shading of other properties would occur.

—      —      X

## II. AGRICULTURE RESOURCES / NATURAL RESOURCES / MINERAL RESOURCES

– Would the proposal result in:

- A. The loss of availability of a known mineral resource (e.g., sand or gravel) that would be of value to the region and the residents of the state?

—      —      X



Yes   Maybe   No

There are no such resources located on the site.

- B. The conversion of agricultural land to nonagricultural use or impairment of the agricultural productivity of agricultural land?  
See II A.

—   —   X

III. AIR QUALITY – Would the proposal:

- A. Conflict with or obstruct implementation of the applicable air quality plan?  
Project would not obstruct the implementation of any local or state air quality plan.

—   —   X

- B. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?  
See III A.

—   —   X

- C. Expose sensitive receptors to substantial pollutant concentrations?  
See III A.

—   —   X

- D. Create objectionable odors affecting a substantial number of people?  
See III A.

—   —   X

- E. Exceed 100 pounds per day of Particulate Matter 10 (dust)?  
See III A; dust may be created temporarily during construction only, however, standard dust control measures would be implemented during this time.

—   —   X

- F. Alter air movement in the area of the project?  
See III A. No substantial air emissions would occur with the project uses.

—   —   X

- G. Cause a substantial alteration in moisture, or temperature, or any change in climate, either locally or regionally?

—   —   X



Yes   Maybe   No

See III A and F.

IV. BIOLOGY – Would the proposal result in:

- |   |                         |
|---|-------------------------|
| <p>A. A reduction in the number of any unique, rare, endangered, sensitive, or fully protected species of plants or animals?<br/><u>Area was previously graded and no biological resources exist on-site.</u></p>   | <p>—   —   <u>X</u></p> |
| <p>B. A substantial change in the diversity of any species of animals or plants?<br/><u>See IV. A.</u></p>  | <p>—   —   <u>X</u></p> |
| <p>C. Introduction of invasive species of plants into the area?<br/><u>See IV A.</u></p>  | <p>—   —   <u>X</u></p> |
| <p>D. Interference with the movement of any resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors?<br/><u>See IV A.</u></p>  | <p>—   —   <u>X</u></p> |
| <p>E. An impact to a sensitive habitat, including, but not limited to streamside vegetation, aquatic, riparian, oak woodland, coastal sage scrub or chaparral?<br/><u>See IV A.</u></p>   | <p>—   —   <u>X</u></p> |
| <p>F. An impact on City, State, or federally regulated wetlands (including, but not limited to, coastal salt marsh, vernal pool, lagoon, coastal, etc.) through direct removal, filling, hydrological interruption or other means?<br/><u>See IV A.</u></p> | <p>—   —   <u>X</u></p> |
| <p>G. Conflict with the provisions of the City's Multiple Species Conservation Program (MSCP) Subarea Plan or other approved local, regional or state habitat conservation plan?</p>  | <p>—   —   <u>X</u></p> |



Yes   Maybe   No

The project site is not located within or adjacent to the MHPA and no conflicts would occur with any habitat conservation plan.

V. ENERGY – Would the proposal:

- A. Result in the use of excessive amounts of fuel or energy (e.g. natural gas)?

The proposed project would not result in the use of excessive amounts of fuel, energy, or power.

—   —   X

- B. Result in the use of excessive amounts of power?

See V A.

—   —   X

VI. GEOLOGY/SOILS – Would the proposal:

- A. Expose people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure, or similar hazards?

According to the City of San Diego's Seismic Safety Study maps the site rated of 53 (low to moderate risk) and is underlain by a concealed fault (Zone 12). A geotechnical investigation/report would be required. See Initial Study discussion.

—   X   —

- B. Result in a substantial increase in wind or water erosion of soils, either on or off the site?

Site previously graded and entirely developed; applicable erosion control BMPs would be incorporated during and after construction.

—   —   X

- C. Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

See VI A.

—   X   —

VII. HISTORICAL RESOURCES – Would the proposal result in:



	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
A. Alteration of or the destruction of a prehistoric or historic archaeological site? <u>The site is not located within the City's Historical Sensitivity Map Zone; no cultural sites are recorded on-site; no potentially historic structures exist on-site.</u>	—	—	<u>X</u>
B. Adverse physical or aesthetic effects to a prehistoric or historic building, structure, object, or site? <u>See VII A.</u>	—	—	<u>X</u>
C. Adverse physical or aesthetic effects to an architecturally significant building, structure, or object? <u>See VII A.</u>	—	—	<u>X</u>
D. Any impact to existing religious or sacred uses within the potential impact area? <u>See VII A.</u>	—	—	<u>X</u>
E. The disturbance of any human remains, including those interred outside of formal cemeteries? <u>See VII A.</u>	—	—	<u>X</u>
VIII. HUMAN HEALTH / PUBLIC SAFETY / HAZARDOUS MATERIALS : Would the proposal:			
A. Create any known health hazard (excluding mental health)? <u>An updated Phase I Site Assessment has been prepared for the project: see Initial Study discussion.</u>	—	<u>X</u>	—
B. Expose people or the environment to a significant hazard through the routine transport, use or disposal of hazardous materials? <u>See VIII. A.</u>	—	—	<u>X</u>



	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
C. Create a future risk of an explosion or the release of hazardous substances (including but not limited to gas, oil, pesticides, chemicals, radiation, or explosives)? <u>See VIII A.</u>	—	—	<u>X</u>
D. Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan? <u>Project would not interfere with any adopted emergency response plan or emergency evacuation plan.</u>	—	—	<u>X</u>
E. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or environment? <u>See VIII A.; see discussion in the Initial Study.</u>	—	—	<u>X</u>
F. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? <u>See VIII A.; see discussion in the Initial Study.</u>	—	—	<u>X</u>

IX. HYDROLOGY/WATER QUALITY – Would the proposal result in:

A. An increase in pollutant discharges, including down stream sedimentation, to receiving waters during or following construction? Consider water quality parameters such as temperature dissolved oxygen, turbidity and other typical storm water pollutants.	—	—	<u>X</u>
<u>Project would need to incorporate pre- and post-construction Best Management Practices in this project as required by the City's Stormwater Standards.</u>			

B. An increase in impervious surfaces and



	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
associated increased runoff?	—	—	<u>X</u>
<u>See IX. A.</u>			
C. Substantial alteration to on- and off-site drainage patterns due to changes in runoff flow rates or volumes?	—	—	<u>X</u>
<u>See IX. A.; site previously graded.</u>			
D. Discharge of identified pollutants to an already impaired water body (as listed on the Clean Water Act Section 303(b) list)?	—	—	<u>X</u>
<u>See XI. A.</u>			
E. A potentially significant adverse impact on ground water quality?			
<u>See IX. A.</u>			
F. Cause or contribute to an exceedance of applicable surface or groundwater receiving water quality objectives or degradation of beneficial use?			
<u>See IX. A.</u>			
X. LAND USE – Would the proposal result in:			
A. A land use which is inconsistent with the adopted community plan land use designation for the site or conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over a project?	—	—	<u>X</u>
<u>Project site is designated General Commercial within the Clairemont Community Plan and is consistent with the goals and objectives of the Plan.</u>			
B. A conflict with the goals, objectives and recommendations of the community plan in which it is located?	—	—	<u>X</u>
<u>See X. A.</u>			
C. A conflict with adopted environmental plans, including applicable habitat conservation plans adopted for the purpose of avoiding			



	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
or mitigating an environmental effect for the area?	—	—	<u>X</u>
<u>The project is not in conflict with any adopted environmental plans for the area.</u>			
D. Physically divide an established community?	—	—	<u>X</u>
<u>The project would not divide an established community.</u>			
E. Land uses which are not compatible with aircraft accident potential as defined by an adopted airport Comprehensive Land Use Plan (CLUP)?	—	—	<u>X</u>
<u>Project is not located within a CLUP.</u>			
XI. NOISE – Would the proposal result in:			
A. A significant increase in the existing ambient noise levels?	—	—	<u>X</u>
<u>No significant elevated ambient noise would result from project implementation.</u>			
B. Exposure of people to noise levels which exceed the City's adopted noise ordinance?	—	<u>X</u>	—
<u>It is possible that adjacent residential uses would be exposed to noise levels which exceed the City's adopted noise ordinance; a noise study would be required; see discussion in Initial Study.</u>			
C. Exposure of people to current or future transportation noise levels which exceed standards established in the Transportation Element of the General Plan or an adopted airport Comprehensive Land Use Plan?	—	<u>X</u>	—
<u>See XI. B.</u>			
XII. PALEONTOLOGICAL RESOURCES: Would the proposal impact a unique paleontological resource or site or unique geologic feature?	—	<u>X</u>	—
<u>Monitoring would be required as the project site</u>			



Yes      Maybe      No

may have significant paleontological resources.  
Appropriate mitigation has been proposed. See  
MMRP and Section IV, Initial Study discussion.

XIII. POPULATION AND HOUSING – Would the proposal:

- |  |   |   |          |
|--|---|---|----------|
| A. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?<br><u>The project is redeveloping an area with similar commercial/retail uses.</u> | — | — | <u>X</u> |
| B. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?<br><u>No housing would be displaced.</u>   | — | — | <u>X</u> |
| C. Alter the planned location, distribution, density or growth rate of the population of an area?<br><u>Project is commercial redevelopment and would not alter population characteristics of the area.</u>  | — | — | <u>X</u> |

XIV. PUBLIC SERVICES – Would the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:

- |  |   |   |          |
|--|---|---|----------|
| A. Fire protection?<br><u>Served by Fire Station 25 with a 2.7 minute response time (6 min. goal).</u> | — | — | <u>X</u> |
| B. Police protection?<br><u>In Western Division with 7.2 minute response time (7 min. goal).</u>       | — | — | <u>X</u> |
| C. Schools?<br><u>Project is commercial redevelopment.</u>   | — | — | <u>X</u> |
| D. Parks or other recreational facilities?<br><u>Project is commercial redevelopment.</u>              | — | — | <u>X</u> |
| E. Maintenance of public   |   |   |          |



	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
facilities, including roads? <u>Project is redevelopment; adequate services are available.</u>	—	—	<u>X</u>
F. Other governmental services? <u>Project is redevelopment; adequate services are available.</u>	—	—	<u>X</u>

XV. RECREATIONAL RESOURCES – Would the proposal result in:

A. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? <u>The project would not require the construction or expansion of public recreational facilities.</u>	—	—	<u>X</u>
B. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? <u>See XV. A.</u>	—	—	<u>X</u>

XVI. TRANSPORTATION/CIRCULATION – Would the proposal result in:

A. Traffic generation in excess of specific/ community plan allocation? <u>Traffic study is required; see discussion in the Initial Study.</u>	—	<u>X</u>	—
B. An increase in projected traffic which is substantial in relation to the existing traffic load and capacity of the street system? <u>See XVI. A.</u>	—	<u>X</u>	—
C. An increased demand for off-site parking? <u>Project will have adequate on-site parking including a underground parking garage.</u>	—	—	<u>X</u>
D. Effects on existing parking?	—	—	<u>X</u>



	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
<u>See XVI. C.</u>			
E. Substantial impact upon existing or planned transportation systems? <u>See XVI. A.</u>	—	<u>X</u>	—
F. Alterations to present circulation movements including effects on existing public access to beaches, parks, or other open space areas? <u>See XVI. A.</u>	—	—	<u>X</u>
G. Increase in traffic hazards for motor vehicles, bicyclists or pedestrians due to a proposed, non-standard design feature (e.g., poor sight distance or driveway onto an access-restricted roadway)? <u>Project would be subject to City Engineering Safety Standards.</u>	—	—	<u>X</u>
H. A conflict with adopted policies, plans or programs supporting alternative transportation models (e.g., bus turnouts, bicycle racks)? <u>See XVI. A.</u>	—	—	<u>X</u>
XVII. UTILITIES – Would the proposal result in a need for new systems, or require substantial alterations to existing utilities, including:			
A. Natural gas? <u>Project is redevelopment; adequate services are available.</u>	—	—	<u>X</u>
B. Communications systems? <u>See XVII. A.</u>	—	—	<u>X</u>
C. Water? <u>See XVII. A.</u>	—	—	<u>X</u>
D. Sewer? <u>See XVII. A.</u>	—	—	<u>X</u>
E. Storm water drainage? <u>See XVII. A.</u>	—	—	<u>X</u>
F. Solid waste disposal?	—	<u>X</u>	—



Yes   Maybe   No

Waste Management Plan required.

XVIII. WATER CONSERVATION – Would the proposal result in:

- |   |   |   |          |
|---|---|---|----------|
| A. Use of excessive amounts of water?<br><u>The project would result in standard commercial water consumption.</u>                              | — | — | <u>X</u> |
| B. Landscaping which is predominantly non-drought resistant vegetation?<br><u>Landscaping would comply with the City's Landscape Standards.</u> | — | — | <u>X</u> |

XIX. MANDATORY FINDINGS OF SIGNIFICANCE:

- |   |   |          |          |
|---|---|----------|----------|
| A. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?<br><u>Potential effects on paleontological resources; mitigation measures required.</u> | — | <u>X</u> | —        |
| B. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts would endure well into the future.)<br><u>The project would not result in short- or long-term unmitigated impacts.</u>  | — | —        | <u>X</u> |
| C. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small.  |   |          |          |



but where the effect of the total of those impacts on the environment is significant.)

The proposed project would not result in cumulative impacts.

— — X

- D. Does the project have environmental effects which would cause substantial adverse effects on human beings, either directly or indirectly?

The project would not have environmental effects that would cause adverse effects on human beings.

— — X



## INITIAL STUDY CHECKLIST

### REFERENCES

#### I. Aesthetics / Neighborhood Character

\_\_\_ City of San Diego Progress Guide and General Plan.

X Community Plan.

\_\_\_ Local Coastal Plan.

#### II. Agricultural Resources / Natural Resources / Mineral Resources - N/A

\_\_\_ City of San Diego Progress Guide and General Plan.

X U.S. Department of Agriculture, Soil Survey - San Diego Area, California, Part I and II, 1973.

\_\_\_ California Department of Conservation - Division of Mines and Geology, Mineral Land Classification.

\_\_\_ Division of Mines and Geology, Special Report 153 - Significant Resources Maps.

#### III. Air

\_\_\_ California Clean Air Act Guidelines (Indirect Source Control Programs) 1990.

\_\_\_ Regional Air Quality Strategies (RAQS) - APCD.

\_\_\_ Site Specific Report:

#### IV. Biology

X City of San Diego, Multiple Species Conservation Program (MSCP), Subarea Plan, 1997

\_\_\_ City of San Diego, MSCP, "Vegetation Communities with Sensitive Species and Vernal Pools" maps, 1996.

X City of San Diego, MSCP, "Multiple Habitat Planning Area" maps, 1997.

\_\_\_ Community Plan - Resource Element.



\_\_\_\_ California Department of Fish and Game, California Natural Diversity Database, "State and Federally-listed Endangered, Threatened, and Rare Plants of California," January 2001.

\_\_\_\_ California Department of Fish & Game, California Natural Diversity Database, "State and Federally-listed Endangered and Threatened Animals of California," January 2001.

X City of San Diego Land Development Code Biology Guidelines.

X Site Specific Report: Site visit by City staff.

**V. Energy**

**VI. Geology/Soils**

X City of San Diego Seismic Safety Study.

X U.S. Department of Agriculture Soil Survey - San Diego Area, California, Part I and II, December 1973 and Part III, 1975.

X Site Specific Report: Geologic Investigation Update Letter, Bay View Plaza, dated March 17, 2003.

**VII. Historical Resources**

X City of San Diego Historical Resources Guidelines.

X City of San Diego Archaeology Library.

\_\_\_\_ Historical Resources Board List.

\_\_\_\_ Community Historical Survey:

\_\_\_\_ Site Specific Report:

**VIII. Human Health / Public Safety / Hazardous Materials**

X San Diego County Hazardous Materials Environmental Assessment Listing, 2003.



X San Diego County Hazardous Materials Management Division  
\_\_\_ FAA Determination

\_\_\_ State Assessment and Mitigation, Unauthorized Release Listing, Public Use Authorized 1995.

X Airport Comprehensive Land Use Plan.

X Site Specific Report: Updated Phase I Environmental Assessment for Bay View Plaza, dated June 2003.

**IX. Hydrology/Water Quality**

X Flood Insurance Rate Map (FIRM).

\_\_\_ Federal Emergency Management Agency (FEMA), National Flood Insurance Program - Flood Boundary and Floodway Map.

\_\_\_ Clean Water Act Section 303(b) list, dated May 19, 1999,  
[http://www.swrcb.ca.gov/tmdl/303d\\_lists.html](http://www.swrcb.ca.gov/tmdl/303d_lists.html).

**X. Land Use**

\_\_\_ City of San Diego Progress Guide and General Plan.

X Community Plan.

X Airport Comprehensive Land Use Plan

\_\_\_ City of San Diego Zoning Maps

\_\_\_ FAA Determination

**XI. Noise**

X Community Plan

X San Diego International Airport - Lindbergh Field CNEL Maps.

\_\_\_ Brown Field Airport Master Plan CNEL Maps.

\_\_\_ MCAS Miramar CNEL Maps.



- \_\_\_ San Diego Association of Governments - San Diego Regional Average Weekday Traffic Volumes.
- \_\_\_ San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG.
- \_\_\_ City of San Diego Progress Guide and General Plan.
- X Site Specific Report: Acoustical Analysis Report, dated March 26, 2003.

## **XII. Paleontological Resources**

- X City of San Diego Paleontological Guidelines.
- X Thomas A., and Stephen L. Walsh, "Paleontological Resources City of San Diego," Department of Paleontology San Diego Natural History Museum, 1996.
- X Kennedy, Michael P., and Gary L. Peterson, "Geology of the San Diego Metropolitan Area, California. Del Mar, La Jolla, Point Loma, La Mesa, Poway, and SW 1/4 Escondido 7 1/2 Minute Quadrangles," California Division of Mines and Geology Bulletin 200, Sacramento, 1975.
- \_\_\_ Kennedy, Michael P., and Siang S. Tan, "Geology of National City, Imperial Beach and Otay Mesa Quadrangles, Southern San Diego Metropolitan Area, California," Map Sheet 29, 1977.
- \_\_\_ Site Specific Report:

## **XIII. Population / Housing**

- \_\_\_ City of San Diego Progress Guide and General Plan.
- X Community Plan.
- \_\_\_ Series 8 Population Forecasts, SANDAG.
- \_\_\_ Other:

## **XIV. Public Services**

- \_\_\_ City of San Diego Progress Guide and General Plan.
- X Community Plan.



**XV. Recreational Resources -**

\_\_\_ City of San Diego Progress Guide and General Plan.

X Community Plan.

\_\_\_ Department of Park and Recreation

\_\_\_ City of San Diego - San Diego Regional Bicycling Map

\_\_\_ Additional Resources:

**XVI. Transportation / Circulation**

\_\_\_ City of San Diego Progress Guide and General Plan.

X Community Plan.

\_\_\_ San Diego Metropolitan Area Average Weekday Traffic Volume Maps, SANDAG.

\_\_\_ San Diego Region Weekday Traffic Volumes, SANDAG.

X Site Specific Report: Bay View Plaza Traffic Study, revised 2003.

**XVII. Utilities - N/A**

\_\_\_

**XVIII. Water Conservation - N/A**

\_\_\_ Sunset Magazine, New Western Garden Book. Rev. ed. Menlo Park, CA: Sunset Magazine.



001437

# REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

 1. CERTIFICATE NUMBER 342  
 (FOR AUDITOR'S USE ON 05/27

 TO: CITY ATTORNEY  
 2. FROM (ORIGINATING DEPARTMENT): Development Services Department  
 3. DATE: May 27, 2008

4. SUBJECT: Bay View Plaza

 5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.) Farah Mahzari, 446-5360, 501  
 6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.) Jeannette Temple, (619) 557-7908, 501  
 7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED ☐

## 8. COMPLETE FOR ACCOUNTING PURPOSES

FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.	1317				No cost to the City. All costs are recovered through a deposit account funded by the applicant.
ORGANIZATION	1672				
OBJECT ACCOUNT	4038				
JOB ORDER	430260				
C.I.P. NUMBER					
AMOUNT					

## 10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	KELLY BROUGHTON	4/21/08	8	DEPUTY CHIEF	WILLIAM ANDERSON	4/22/08
2	EAS	ALLISON SHERWOOD	4/22/08	9			
3	ECOP EXEMPT, PER MEMO DATED 5/9/96			10	CITY ATTORNEY		
4				11	ORIG. DEPT	MIKE WESTLAKE	4/21/08
5				DOCKET COORD: _____ COUNCIL LIAISON: _____ <input checked="" type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: _____			
6							
7							

 11. PREPARATION OF: ☒ RESOLUTIONS ☐ ORDINANCE(S) ☐ AGREEMENT(S) ☐ DEED(S)

- Council resolution certifying the information contained in LDR File No. 149101 has been completed in compliance with the California Environmental Quality Act and State CEQA Guidelines, and that said Addendum No. 149101 to Mitigated Negative Declaration No. 5540 reflects the independent judgment of the City of San Diego as Lead Agency, stating for the record the final Addendum No. 149101 to Mitigated Negative Declaration No. 5540 has been reviewed and considered prior to approving the project, adopting the Mitigation Monitoring and Reporting Program.
- Council resolution approving Tentative Map No. 525789.
- Council resolution approving Planned Development Permit No. 525776 and Site Development Permit No. 525777.

11A. STAFF RECOMMENDATIONS:

Adopt the Resolutions



12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): 6

COMMUNITY AREA(S): CLAIREMONT MESA

ENVIRONMENTAL IMPACT: THE CITY OF SAN DIEGO AS LEAD AGENCY UNDER CEQA HAS COMPLETED ADDENDUM  
NO. 149101 TO MITIGATED NEGATIVE DECLARATION NO. 5540, DATED MARCH 14, 2008,  
AND MITIGATION, MONITORING, AND REPORTING PROGRAM COVERING THIS  
ACTIVITY.

001438

HOUSING IMPACT: NONE WITH THIS ACTION

INSTRUCTIONS TO THE CITY CLERK:

- 1 PUBLIC NOTICING IS REQUIRED.
- 2 RETURN COPIES OF EACH RESOLUTION AND PERMIT TO FARAH MAHZARI, MS 501.
- 3 COUNCIL ACTION REQUIRES A MAJORITY VOTE.
- 4 THE TENTATIVE MAP IS BEING PROCESSED IN ACCORDANCE WITH SDMC 125.0450, THE PDP IN ACCORDANCE WITH 126.0601, THE SDP IN ACCORDANCE WITH 126.0501 AND 132.1301 THROUGH 132.1306.



## EXECUTIVE SUMMARY SHEET

DATE REPORT ISSUED: April 14, 2008

REPORT NO.: PC-08-42

ATTENTION: Council President and City Council

ORIGINATING DEPARTMENT: Development Services Department

SUBJECT: Bay View Plaza: PTS 149101

COUNCIL DISTRICT: 6

STAFF CONTACT: Farah Mahzari- 446-5360

REQUESTED ACTION:

Development of a 74,870 square foot commercial center on a 4.43 acre site located at 2509-2591 Clairemont Drive in the CC-1-3 Zone of the Clairemont Mesa Community Plan area.

STAFF RECOMMENDATION:

1. **Certify** Addendum No. 149101 to previously certified Mitigated Negative Declaration No. 5540, and Adopt the Mitigation Monitoring and Reporting Program; and
2. **Approve** Tentative Map No. 525789 including various easement and right-of-way vacations, Planned Development Permit No. 525776, and Site Development Permit No. 525777.

EXECUTIVE SUMMARY:

The property is located at 2509-2591 Clairemont Drive east of Mission Bay, Interstate 5 and Morena Boulevard, north of Ingulf Street, west of Denver Street and south of Clairemont Drive. The site is within the Clairemont Mesa Community Plan area, and is designated for general commercial land use.

On April 19, 2005, the City Council approved Site Development Permit No. 9100, Planned Development Permit No. 179619, and Tentative Map No. 179620 for demolition of existing commercial buildings and construction of 86,770 square feet of shopping center, including retail commercial, restaurant and office uses to be constructed in two phases. On December 20, 2007, a demolition permit was issued to demolish an existing 19,000 square-foot one story commercial building. Once this building is demolished, the existing Jack in the Box, Lube and Car Wash, and a small drive-up kiosk will remain on the site.

Since that time, the project has been redesigned, and an amendment to the permits is required. The proposed project would allow demolition of the remaining commercial buildings and construction of 74,870 square feet of retail in six buildings and in two phases as previously approved. The proposed amendments to the project include a reduction in building area of the commercial development, and substitution of two small tuck-under parking areas plus surface parking in lieu of the two-level parking garage. There will be traffic access from Clairemont Drive, Denver Street, Ingulf Street and Morena Boulevard, and there will continue to be pedestrian access from each of those streets. The proposed project will be pedestrian oriented and amenable to the future anticipated trolley stop across Morena Boulevard.



30 foot height and setback deviations: The project site is located within the Clairemont Mesa Height Limit Overlay Zone. The regulations of this Overlay Zone are included in Land Development Code (LDC) Sections 132.1301 through 132.1306 and restrict the height of proposed development to a maximum of 30-feet. The purpose and intent of the Overlay Zone is to provide supplemental height regulations for western Clairemont Mesa, ensure the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected. The project as proposed will exceed 30-feet in height in several locations. Staff review has determined these limited exceptions will not have an adverse impact on public views of Mission Bay or the Pacific Ocean. The LDC allows for considerations of exceptions to this height limit through a Site Development Permit (SDP).

A Planned Development Permit (PDP) is required to accommodate proposed deviations to an established 20-foot setback which was imposed on the entire 5.43-acre site with recordation of the original subdivision map, West Clairemont Plaza Unit No. 1 Map No. 3780 in 1958. This setback requires structures to observe a minimum 20-foot setback from the adjacent property line. Proposed site development includes structures which observe reduced setbacks, less than 20-feet. The site is currently zoned CC-1-3 which has no required front or street side setback and would otherwise allow development of structures located at the property line. Staff review has determined the proposed setback deviations are consistent with the purpose and intent of the PDP regulations to provide greater flexibility for the project, and comply with current development regulations of the applicable zone.

A Tentative Map (TM) is required for the subdivision of the 4.43-acre site into four parcels including right-of-ways and public service easements which must be vacated, contingent upon the recordation of the approved final map for the project.

FISCAL CONSIDERATIONS:

No fiscal impact. All costs associated with the processing of the application are recovered through a deposit account funded by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On April 19, 2005, the City Council approved Site Development Permit No. 9100, Planned Development Permit No. 179619, and Tentative Map No. 179620 for demolition of existing commercial buildings and construction of 86,770 square feet of shopping center, including retail commercial, restaurant and office uses to be constructed in two phases.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

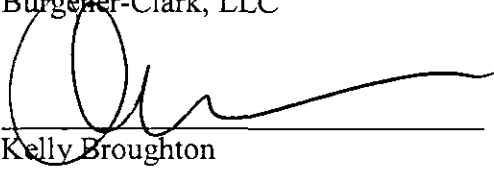
On April 3, 2008, the Planning Commission recommended approval by unanimous vote with one modification to the project; to urge the City Council to include a permit condition to require the project to become efficient with resources, including energy, water, and materials associated with construction, as demonstrated in Council Policy 900-14 "Green Building Policy" adopted in 1997, Council Policy 900-16 "Community Energy Partnership," Adopted in 2000, and the adopted General Plan. The Clairemont Mesa Community Planning Group voted unanimously (11-0) in favor of the project on March 18, 2008, with no conditions.



001441

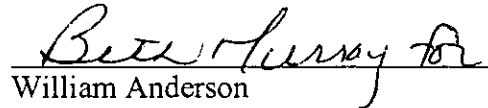
KEY STAKEHOLDERS:

Burgener-Clark, LLC

A handwritten signature in black ink, appearing to read 'Kelly Broughton', written over a horizontal line.

Kelly Broughton

Director, Development Services Department

A handwritten signature in black ink, appearing to read 'William Anderson', written over a horizontal line.

William Anderson

Deputy Chief Operating Officer:  
Executive Director of City Planning  
and Development

ATTACHMENTS:

1. Report to Planning Commission PC-08-042



RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

WHEREAS, on February 4, 2008, Burgener-Clark, LLC, Applicant, submitted an application to the City of San Diego for a site development permit/planned development permit and tentative map for the Bay View Plaza project; and

WHEREAS, the matter was set for a public hearing to be conducted by the Council of the City of San Diego; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the issue was heard by the City Council on \_\_\_\_\_; and

WHEREAS, the City Council considered the issues discussed in Addendum No. 149101 to Mitigated Negative Declaration No. 5540; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Addendum No. 149101 to Mitigated Negative Declaration No. 5540, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public



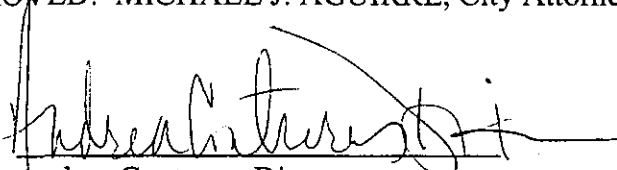
review process, has been reviewed and considered by this Council in connection with the approval of a site development permit/planned development permit and tentative map for the Bay View Plaza project.

BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Addendum to Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Andrea Contreras Dixon  
Deputy City Attorney

ACD:pev  
04/30/08  
05/13/08 COR.COPY  
Or.Dept:DSD  
R-2008-988  
MMS #6154  
ENVIRONMENTAL - MND 11-01-04



**EXHIBIT A****MITIGATION MONITORING AND REPORTING PROGRAM****Site Development Permit, Planned Development Permit and Tentative Map****PROJECT NO. Addendum No 149101 to Project No.****5540****DEP NO. 1316**

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review/Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Addendum No. 149101 to Mitigated Negative Declaration No. 5540) shall be made conditions of Site Development Permit, Planned Development Permit and Tentative Map as may be further described below.

**Human Health/Public Safety**

1. Prior to the issuance of any demolition permits, proper testing shall be conducted by the applicant, to the satisfaction of the City Engineer, to determine if asbestos or lead-based paints exist within the structures slated for demolition. If testing shows the presence of asbestos or lead-based paints, then proper precautions shall be made during the removal and disposal of these materials, as regulated by state agencies during the removal and disposal of these materials, as regulated by state agencies (Cal-OSHA and Cal-EPA) and the San Diego Air Pollution Control District Rule 361.145 Standard for Demolition and Renovation, to ensure that no hazards to the demolition crew, adjacent residents, or other individuals are created.

**Solid Waste**

LDR Plan Check – Prior to the issuance of any permit, including but not limited to, any discretionary action, grading, or any other construction permits, the Assistant Deputy Director (ADD) shall verify that all the requirements of the Waste Management Plan have been shown and/or noted on the Demolition and/or Grading Plan (Construction documents).

- 1) Prior to the issuance of a demolition permit, the permittee shall be responsible to arrange a preconstruction meeting. This meeting shall be coordinated with Mitigation, Monitoring Coordination (MMC) to verify that implementation of the Waste Management Plan shall be performed in compliance with the plan approved by LDR and the San Diego Environmental Services Department (ESD), to ensure that impacts to solid waste facilities are mitigated to below a level of significance.
- 2) The plan (construction documents) shall include the following elements for grading, construction, and occupancy phases of the project as applicable.



- a) tons of waste anticipated to be generated,
  - b) material type of waste to be generated,
  - c) source separation techniques for waste generated,
  - d) how materials will be reused off-site,
  - e) name and location of recycling, reuse, or landfill facilities where waste will be taken if not reused onsite,
  - f) a "buy" recycled program,
  - g) how the project will aim to reduce the generation of construction/demolition debris,
  - h) a plan of how waste reduction and recycling goals will be communicated to subcontractors,
  - i) a time line for each main phase of the project as stated above.
- 3) The plan shall strive for a goal of 50% waste reduction.
- 4) The plan shall include specific performance measures to be assessed upon the completion of the project to measure success in achieving waste minimization goals. The permittee shall notify MMC and ESD when:
- a) A construction permit is issued.
  - b) When construction begins.
  - c) The permittee shall arrange for progress inspections, and a final inspection, as specified in the plan and shall contact both MMC and ESD to perform these periodic visits during construction to inspect the progress of the project's waste diversion efforts. Notification shall be sent to:
 

MMC/Tony Gagitano Mitigation Monitoring Coordination  9601 Ridgehaven Court Ste. 320, MS 1102B San Diego, CA 92123-1636 (619) 980-7122 or (858) 627-3360	Angelee Mullins Environmental Services Department 9601 Ridgehaven Court Ste. 320, MS 1103B San Diego, CA 92123-1636 (858) 492-5010
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  - d) When Demolition ends.
- 5) Prior to the issuance of a grading permit, the applicant shall receive approval from the ADD that the Waste Management Plan has been prepared, approved, and implemented. Also, prior to the issuance of the grading permit, the applicant shall



submit evidence to the ADD that the final Demolition/Construction report has been approved by MMC and ESD. This report shall summarize the results of implementing the above Waste Management Plan elements, including: the actual waste generated and diverted from the project, the waste reduction percentage achieved, and how the goal was achieved, etc.

#### Preconstruction Meeting

- 1) At least thirty days prior to beginning any work on the site, demolition and/or grading, for the implementation of the MMRP, the Permittee is responsible to arrange a Preconstruction Meeting that shall include, the Construction Manager or Grading Contractor, MMC, and ESD and the Resident Engineer (RE), if there is an engineering permit.
- 2) At the preconstruction Meeting, the Permittee shall submit Three (3) reduced copies (11" x 17") of the approved Waste Management Plan to MMC (2) copies and to ESD (1) copy.
- 3) Prior to the start of demolition, the Permittee/Construction Manager shall submit a construction schedule to MMC and ESD.

#### During Construction

The Permittee/Construction Manager shall call for inspection by both MMC and ESD who will periodically visit the construction site to verify implementation of the Waste Management Plan.

#### Post Construction

- 1) After completion of the implementation of the MMRP, a final results report shall be submitted to MMC to coordinate the review by the ADD and ESD.
- 2) Prior to final clearance of any demolition permit, issuance of a Certification of Occupancy, the applicant shall provide documentation that the ADD of LDR and ESD, that the Waste Management Plan has been effectively implemented.

#### Traffic

- 1) Prior to the issuance of the first building permit, the applicant shall assure by permit and bond the restriping of Denver Street between Clairemont Drive and Ingulf Street to remove on-street parking and provide a center two-way left turn lane to the satisfaction of the City Engineer.
- 2) The applicant shall provide and maintain an additional four (4) parking spaces (above the minimum required) on-site to replace the four parking spaces on the west side of Denver Street that would be lost due to the restriping of Denver Street to provide a center two-way left turn lane.



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The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.



RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

WHEREAS, Burgener-Clark, LLC, a California Limited Liability Company, Craig W. Clark, Managing Member, Applicant/Subdivider, and Partners Planning and Engineering, Engineer, submitted an application to the City of San Diego for a tentative map (Tentative Map No. 525789) amending Tentative Map No. 179620, for the reconfiguration of an existing 2-lot subdivision, for the Bay View Plaza project [Project], located at 2509-2591 Clairemont Drive, bounded by Clairemont Drive to the north, Denver Street to the east, Ingulf Street to the south and Morena Boulevard to the west, and legally described as Lots 1 and 2 of West Clairemont Plaza Unit No. 1, Map No. 3780, in the Clairemont Mesa Community Plan area, in the CC-1-3 zone; and

WHEREAS, on April 3, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 525789, and pursuant to Resolution No. 4394-PC voted to recommend City Council approval of the tentative map; and

WHEREAS, the Map proposes the subdivision of a 4.43-acre site into four parcels; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and San Diego Municipal Code section 144.0220; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the



decision and where the City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on \_\_\_\_\_, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the City Council, that it adopts the following findings with respect to Tentative Map No. 525789:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code [LDC] section 125.0440(a) and Subdivision Map Act Sections 66473.5, 66474(a), and 66474(b)).
2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (LDC section 125.0440(b)).
3. The site is physically suitable for the type and density of development (LDC section 125.0440(c) and Subdivision Map Act Sections 66474(c) and 66474(d)).
4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (LDC section 125.0440(d) and Subdivision Map Act Section 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (LDC section 125.0440(e) and Subdivision Map Act Section 66474(f)).
6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (LDC section 125.0440(f) and Subdivision Map Act Section 66474(g)).
7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (LDC section 125.0440(g) and Subdivision Map Act Section 66473.1).
8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (LDC section 125.0440(h) and Subdivision Map Act Section 66412.3).



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9. The Subdivider shall underground existing and/or proposed utility systems and service facilities in accordance with the San Diego Municipal Code.

10. The property contains right-of-way which must be vacated and public service easements which must be modified and abandoned to implement the final map in accordance with San Diego Municipal Code section 125.0430.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), all easements and portions of public rights-of-way located within the project boundaries as shown in Tentative Map No. 525789, shall be modified, abandoned or vacated as appropriate, contingent upon the recordation of the approved final map for the project.

BE IT FURTHER RESOLVED, that said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon easement reservations or relocations of gas and electric facilities satisfactory to the San Diego Gas and Electric Company.

BE IT FURTHER RESOLVED, that said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon the relocation of water facilities satisfactory to the City Engineer.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), the following public service easements, located within the project boundaries as shown in Tentative Map No. 525789, shall be modified and vacated, contingent upon the recordation of the approved final map for the project:

- a. A portion of the building restricted easement granted on Parcel Map No. 3780.
- b. A portion of the general access and utility easement dedicated by Document recorded 9-20-2001 as File No. 2001-0678260. Said easement shall be vacated upon realignment and dedication of a general access and utility easement, satisfactory to the City Engineer.



- c. A portion of the pedestrian and non-motor vehicular right of way dedicated on Map No. 3780. Said easement shall be vacated upon realignment and dedication of a pedestrian and non-motor vehicular right of way, satisfactory to the City Engineer.
- d. A portion of the open space easement granted on Map 3780. Said easement shall be vacated upon realignment and dedication of an open space easement, satisfactory to the City Engineer.

The property contains right-of-ways and public service easements which must be vacated to implement the parcel map in accordance with San Diego Municipal Code section 125.0430.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66435(j), a portion of Clairemont Drive, a portion of Morena Boulevard and portions of certain public service easements, located within the project boundaries as shown in Tentative Map No. 525789, shall be vacated, contingent upon the recordation of the approved final map for the project.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66445 (j) the following public service easements, located within the project boundaries as shown in Tentative Map No. 525789, shall be vacated, contingent upon the recordation on the approved final map for the project:

- a. Portions of the sewer, drainage and unnamed easements dedicated on Map No. 3780.
- b. The drainage easement recorded February 17, 1960 as File No. 36258 of Official Records.
- c. The public utilities easement recorded June 29, 1969 as File No. 115490 of Official Records.



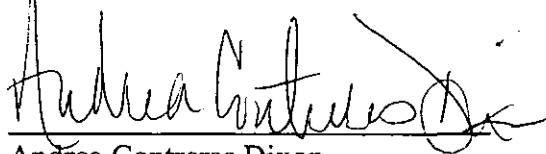
The property contains rights-of-ways and public service easements which must be vacated to implement the parcel map in accordance with San Diego Municipal Code section 125.0430.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that Tentative Map No. 525789 is granted to Burgener-Clark, LLC, a California Limited Liability Company, Craig W. Clark, Managing Member, Applicant/Subdivider and Partners Planning and Engineering, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
Andrea Contreras Dixon  
Deputy City Attorney

ACD:pev

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## CONDITIONS FOR TENTATIVE MAP NO. 525789

## BAY VIEW PLAZA PROJECT

ADOPTED BY RESOLUTION NO. R-\_\_\_\_\_ ON \_\_\_\_\_

**GENERAL**

1. This Tentative Map will expire \_\_\_\_\_.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
3. A Parcel Map shall be recorded in the Office of the County Recorder, prior to the Tentative Map expiration date.
4. This Parcel Map shall comply with the conditions of Site Development Permit No. 525777, Amending SDP No. 9100/Planned Development Permit No. 525776, Amending PDP No. 179619.
5. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.

**ENGINEERING**

6. A Parcel Map shall be recorded in the Office of the County Recorder, prior to the Tentative Map expiration date.
7. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
8. The subdivider shall vacate a portion of Clairemont Drive and Morena Boulevard rights-of-way and portions of sewer, drainage and unnamed easements.
9. The subdivider shall construct new City standard curb, gutter and sidewalk adjacent to the newly vacated portions of the right-of-way on Clairemont Drive and Morena Boulevard.
10. The subdivider shall install a maximum 30-foot wide City standard driveway, on Clairemont Drive, per Standard Drawings SDG-114, G-16 and SDG-100.
11. The subdivider shall install one 28-foot wide City standard driveway, on Denver Street, per Standard Drawings SDG-114, G-16 and SDG-100.



12. The subdivider shall install two separate 30-foot wide City standard driveways on Ingulf Street, per Standard Drawing SDG-114, G-16 and SDG-100.
13. The subdivider shall construct one 24-foot wide City standard driveway, on Morena Boulevard, per Standard Drawings SDG-114, G-16 and SDG-100.
14. The subdivider shall reconstruct the existing curb ramps with City standard curb ramps with truncated domes, at the following street intersections: Clairemont Drive and Denver Street, Denver Street and Ingulf Street and at Ingulf Street and Morena Boulevard.
15. Prior to the issuance of any construction permit, the subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance, satisfactory to the City Engineer.
16. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
17. Prior to the issuance of any construction permit, the subdivider shall incorporate and show the type and location of all post construction BMP's on the final construction drawings, consistent with the approved Water Quality Technical Report.
18. The drainage system for this project shall be private and will be subject to approval by the City Engineer.
19. The subdivider shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
20. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99 08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.
21. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent



amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99 08 DWQ.

22. The subdivider shall obtain an Encroachment Maintenance and Removal Agreement for landscape and irrigation located in the City's right-of-way.

### **MAPPING**

23. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
24. "California Coordinate System means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
25. Every Parcel Map shall:
- a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.
  - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.
26. The design of the subdivision shall include private easements, if any, serving parcels of land outside the subdivision boundary or such easements must be removed from the title of the subdivided lands prior to filing any parcel or final map encumbered by these easements.

### **WASTEWATER**

27. The developer shall relocate all onsite public sewer mains located in the west portion of this site to the public right of way, satisfactory to the Metropolitan Wastewater Department Director. All associated onsite public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director. The onsite 10 inch public sewer main that traverses this site from east to west is excluded from this requirement.



28. All proposed onsite sewer facilities shall be private.
29. The developer shall install all sewer facilities necessary to serve this development, satisfactory to the Metropolitan Wastewater Department Director.
30. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
31. Public sewer and water mains shall be installed with 10 feet edge to edge separation between them.
32. No structures or landscaping shall be installed in or over any sewer easement that would inhibit vehicular access to replace a section of main or provide access to any manhole or isolated section of main.
33. No approved improvements or landscaping, including private sewer facilities, grading and enhanced paving, shall be installed in or over any public easement prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
34. No trees shall be installed within ten feet of any sewer facilities or in any sewer access easement. No shrubs exceeding three feet in height at maturity shall be installed within 10 feet of any public sewer main or within access easements.
35. No other utilities, including gas, electric, telephone and fiber optic cable, shall be located within 10 feet of any public sewer main when these utilities are installed parallel to the sewer main. General Utility Easements [GUE] in private roads and driveways shall be sized with sufficient width to provide for other agencies facilities. In side yards or other non street areas, a GUE must be dedicated for the exclusive use of the City of San Diego or the Metropolitan Wastewater Department. Other agencies will require separate easements.
36. The developer shall grant a private easement to the adjacent hotel lot to the east for their private sewer lateral.

#### **GEOLOGY**

37. Prior to the issuance of a grading permit, a geotechnical report shall be submitted and approved by the City Engineer in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports.

#### **INFORMATION:**

The approval of this Tentative Map by the City Council of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC Section 1531 et seq.).



- If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- This development may be subject to payment of a park fee prior to the filing of the Parcel Map in accordance with San Diego Municipal Code.
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within ninety days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.



001461

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

WHEREAS, Burgener-Clark, LLC, a California Limited Liability Company, Craig W. Clark, Managing Member, Owner/Permittee, filed an application with the City of San Diego for Planned Development Permit No. 525776, amending Planned Development Permit No. 179619/ Site Development Permit No. 525777, amending Site Development Permit No. 9100 to demolish existing buildings and develop a shopping center, including retail commercial, restaurant and office uses on portions of a 4.43-acre site to be known as the Bay View Plaza project, located at 2509-2591 Clairemont Drive, and legally described as Lots 1 and 2 of West Clairemont Plaza Unit No. 1, Map No. 3780, in the Clairemont Mesa Community Plan area, in the CC-1-3 (Community Commercial) zone; and

WHEREAS, on April 3, 2008, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 525776/Site Development Permit [SDP] No. 525777, and pursuant to Resolution No. 4394-PC voted to recommend City Council approval of the Permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on \_\_\_\_\_, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,



BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 525776/Site Development Permit No. 525777:

**A. PLANNED DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE  
[SDMC] SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** The Bay View Plaza project is located east of Mission Bay, Interstate 5 and Morena Boulevard, north of Ingulf Street, west of Denver Street and south of Clairemont Drive, at 2509-2591 Clairemont Drive. It lies within the Clairemont Mesa Community Plan Area, and is designated in the community plan for general commercial land use. The property is zoned CC-1-3, the purpose of which is to accommodate community-serving commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale. The intent of the CC-1-3 zone is to provide for a range of development patterns from pedestrian-friendly commercial streets to shopping centers and auto-oriented strip commercial streets, and may include residential development. The CC-1-3 zone is intended to accommodate development with an auto orientation. The Bay View Plaza project implements the goals and policies of the Clairemont Mesa Community Plan as well as the CC-1-3 zoning. The land use plan for this site calls for the type of development being proposed by the Bay View Plaza project which consists of community-serving commercial and retail, including grocery, restaurant and office uses. The project also complies with the City's Transit Oriented Design [TOD] guidelines. The proposed Bay View Plaza project has been designed in harmony with the Clairemont Mesa Community Plan, implements its goals and policies and, therefore, will not adversely affect the applicable land use plan.

The project site is located within the Community Plan Implementation Overlay Zone for Clairemont Mesa (Land Development Code section 132.0401). The purpose of this Overlay Zone is to provide supplemental developmental regulations that are tailored to specific sites within community plan areas of the City. The intent of this Overlay Zone is to ensure that development proposals are reviewed for consistency with the use and development criteria that have been adopted for specific sites as part of the community plan update process.

The project site is located within the Clairemont Mesa Height Limit Overlay Zone (Land Development Code section 132.1301, et seq.). The purpose of this Overlay Zone is to provide supplemental height regulations for western Clairemont Mesa. The intent of this Overlay Zone is to ensure that the existing low profile development in Clairemont Mesa will be maintained and that public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean are protected.

The project site is located within the Transit Area Overlay Zone (Land Development Code section 132.1001). The purpose and intent of this Overlay Zone are to provide supplemental parking regulations for areas receiving a high-level of transit service, and to identify areas with reduced parking demand and to lower off-street parking requirements accordingly.



The project site is located within the North Bay Redevelopment Plan and the North Bay Redevelopment Project (Ordinance No. O-18516 New Series). The objectives of the Plan which are applicable to this project include:

- a. Eliminate and prevent the spread of blight and deterioration, and conserve, rehabilitate and redevelop the proposed Redevelopment Project Area in accordance with the General Plan, specific plans, the Redevelopment Plan, and local codes and ordinances including the Municipal and Land Development Codes;
- b. Improve, promote, and preserve the positive neighborhood characteristics in North Bay, while correcting physical and economic deficiencies in the community;
- c. Improve and attract the growth and vitality of the proposed Redevelopment Project Area's business environment and address the commercial, service and employment needs of the proposed Redevelopment Project Area;
- d. Encourage the expansion of existing commercial activities, the development of vacant properties and the rehabilitation of dilapidated structures through a coordinated parking program that could include structures or shared parking opportunities throughout all communities within the Project Area;
- e. Enhance the quality of pedestrian and vehicular mobility, and improve transportation facilities, which support the vitality, safety, and viability of North Bay;
- f. Improve the quality of non-vehicular transportation alternatives through the creation and expansion of non-vehicular routes throughout the Project Area;
- g. Enhance infrastructure facilities which improve the community and support public safety, health, and local vitality;
- h. Do such public improvements as needed to eliminate both physical and economic conditions of blight; and
- i. Encourage the growth and retention of small business.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed Bay View Plaza project has been designed to conform to the City of San Diego's codes, policies, and regulations, and the Uniform Codes, the primary focus of which is the protection of the public's health, safety and welfare. The Bay View Plaza project has been reviewed by staff, and determined to be consistent with the Clairemont Mesa Community Plan. An Addendum to the certified Mitigated Negative Declaration has been prepared in accordance with the State of California Environmental Quality Act [CEQA] and the City's environmental regulations, the Fire Department's fire protection policies, and all other applicable regulations. Prior to commencing construction activities for buildings on the site, City staff will review building permit plans for conformance with the Land Development Code and Uniform Codes including plumbing, mechanical, fire and building Codes to ensure that structural, mechanical, electrical, plumbing and access components of the project are designed to protect the public's health, safety and welfare. The project will conform to the development



regulations of the Land Development Code for the CC-1-3 zone established in 2000, which reflect the City's current standards. Deviations to setback and signage requirements have been reviewed and determined to be consistent with the purpose and intent of applicable policies and therefore appropriate.

**3. The proposed development will comply with the regulations of the Land Development Code.** The proposed Bay View Plaza project has been designed to comply with the regulations of the San Diego Municipal Code, including those related to bulk and scale, street design, open space, grading, landscaping, and parking. As provided by the Land Development Code, the Bay View Plaza project includes a deviation from a 20-foot setback that was established in a 1958 final map (the deviation is required to make the project compliant with the City's current zoning standards), and an exception to the 30-foot height limit of the Clairemont Mesa Height Limitation Overlay Zone. The deviation and exception will result in a more desirable project, as is further discussed in Finding 5 below.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The Bay View Plaza project proposes the phased development of a shopping center with retail commercial, restaurant and office uses, along with landscaping, parking and accessory improvements consistent with the land use and development standards applicable to the site. The project has been designed and developed in accordance with the Clairemont Mesa Community Plan to assure that the architectural character, development considerations and related policies of that plan are implemented. The Bay View Plaza project implements the Clairemont Mesa Community Plan in a manner consistent with the adopted zoning and therefore will be beneficial to the community as a whole.

**5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** The Bay View Plaza project includes a deviation from a setback required on a 1958 final map that is inconsistent with current City zoning and standards, and an exception to the Clairemont Mesa Height Limitation Overlay Zone. Staff has reviewed the elevation plans and related exhibits and determined that the development as proposed will not adversely impact any public views that the Clairemont Mesa Height Limitation Overlay Zone was designed to protect. The deviation for setback and the exception to the height limitation are consistent with Land Development Code objectives for Planned Development and Site Development Permits, and the overall intensity of the development conforms to the underlying zoning. The project incorporates a variety of compatible uses, and a pedestrian-oriented environment. The project is designed to respond to the unique topographic, geometric, access, and regulatory constraints on the site. The proposed deviation permits building configurations and ground signs around the perimeter of the Bay View Plaza project to conform to zoning standards of the CC-1-3 zone, established in 2000, in lieu of setbacks established with a 1958 final map on the property. The setback deviation also allows for the creation of pedestrian-oriented sidewalks, and allows the project to comply with the City's TOD guidelines. The TOD guidelines are designed to emphasize pedestrian orientation and urban character near existing or proposed transit facilities. The 20-foot setback required without a deviation, would be inconsistent with the neighborhood surrounding the development. Deviating from the setback allows building entries and storefront windows more proximate to the public sidewalks and provides a development that is interesting



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and inviting to pedestrians and therefore consistent with the TOD guidelines. The exception from the 30-foot height limitation will not adversely impact any existing public views from western Clairemont Mesa to Mission Bay or the Pacific Ocean, and therefore would not impact the views the height limit was designed to protect. The Bay View Plaza project is sensitively designed to conform to the topography of the site, which slopes downward from east to west toward Mission Bay. Views from major roads and public spaces are not impacted due to the significant topographic slope in the area near the Bay View Plaza project. The proposed deviation for setback and exception for height limitation will result in a more desirable project than otherwise would be achieved if designed in strict conformance with the underlying 1958 final map and the 30-foot height limitation.

**B. SITE DEVELOPMENT PERMIT SDMC SECTION 126.0504**

**1. Findings for all Site Development Permits:**

**a. The proposed development will not adversely affect the applicable land use plan.** The Bay View Plaza project is located east of Mission Bay, Interstate 5 and Morena Boulevard, north of Ingulf Street, west of Denver Street and south of Clairemont Drive, at 2509-2591 Clairemont Drive. It lies within the Clairemont Mesa Community Plan Area, and is designated in the community plan for general commercial land use. The property is zoned CC-1-3, the purpose of which is to accommodate community-serving commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale. The intent of the CC-1-3 zone is to provide for a range of development patterns from pedestrian-friendly commercial streets to shopping centers and auto-oriented strip commercial streets, and may include residential development. The CC-1-3 zone is intended to accommodate development with an auto orientation. The Bay View Plaza project implements the goals and policies of the Clairemont Mesa Community Plan as well as the CC-1-3 zoning. The land use plan for this site calls for the very type of development being proposed by the Bay View Plaza project; namely, community-serving commercial and retail. The project also complies with the City's TOD guidelines. The proposed Bay View Plaza project has been designed in harmony with the Clairemont Mesa Community Plan, implements its goals and policies and, therefore, will not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed Bay View Plaza project has been designed to conform to the City of San Diego's codes, policies, and regulations, the primary focus of which is the protection of the public's health, safety and welfare. The Bay View Plaza project has been reviewed extensively by City staff, and is consistent with the Clairemont Mesa Community Plan, CEQA, the City's environmental regulations, the Multiple Species Conservation Program, landscaping and brush management policies, the Fire Department's fire protection policies, water and sewer study recommendations, and requirements for a healthy pedestrian environment, etc. In addition, prior to actual construction of buildings on the subject property, the City staff will review building permit plans against the Uniform Building Code to assure that structural, mechanical, electrical, plumbing and access components of the project are designed to protect the public's health, safety and welfare. The project will conform to contemporary zoning standards (C-1-3) established in 2000, which reflect the City's current standards.



c. **The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed Bay View Plaza project has been designed to comply with the regulations of the San Diego Municipal Code, including requirements for density, bulk and scale, setbacks, street design, open space, grading, landscaping, brush management and parking. As provided for in the Land Development Code, the Bay View Plaza project includes a deviation from certain regulations regarding a 20-foot setback that was established in a 1958 final map (the deviation is required to make the project compliant with the City's current zoning standards), and a minor exception to the Clairemont Mesa 30-foot height limit. The deviation and height limitation exception will result in a more desirable project.

2. **Supplemental Findings – Clairemont Mesa Height Limit**

a. **The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area.** The granting of an exception will not significantly interfere with existing public views from western Clairemont Mesa (the only area that potentially could be impacted by the height limit exception at this location) to Mission Bay and the Pacific Ocean. Overviews from major roads and public spaces at higher elevations are not compromised due to the significant topographic slope in the area near the development. Moreover, the most significant views of Mission Bay and the Pacific Ocean in the area of the development are the public views available to travelers on Clairemont Drive. The only views in that area that potentially would be blocked by the development's exception from the height limit already have been blocked by the existing off-ramp on Interstate 5 just to the west of the development, as well as by the mature trees that exist in the area, and the billboard on the north east corner of the project site. Because the billboard, trees and freeway off-ramp already block any public views from Clairemont Drive to Mission Bay and the Pacific Ocean from low-lying areas that otherwise potentially may be blocked by the project, there is no existing public view being blocked solely as a result of the development's proposed height exception. The proposed project will improve the situation by removing the existing billboard on the northeast corner as part of Phase One.

b. **The granting of an exception is appropriate because there are existing structures over 30 feet in height and the proposed development will be compatible with surrounding one, two, or three-story structures; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.** The granting of an exception is appropriate because there are existing structures over 30-feet in height and the proposed development will be compatible with surrounding 1-, 2-, or 3-story structures. For example, the Best Western Motel in the Bay View complex, as well as two medical buildings at the corner of Gesner and Denver Streets, already has portions that exceed the height limit, and the proposed development is compatible with those existing buildings. The proposed 2- and 3-story development also would be compatible with the other surrounding 1-, 2-, and 3- story structures in the area, which vary in shape and size in a way that fits in well with the proposed project. The development's proposed grouping of smaller buildings would preserve intermediate vistas through the village complex that exists from places on the adjoining streets. In addition, the granting of an exception is appropriate because there are



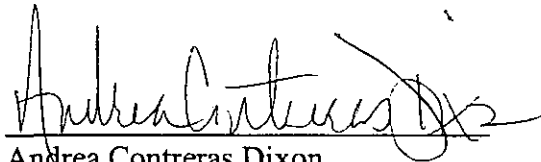
topographic constraints peculiar to the property at and near the proposed development. For example, there is more than 40 feet of fall from the intersection of Clairemont Drive and Denver Street to the intersection of Morena Boulevard and Ingulf Street. As a result, the buildings in the development were designed to step and terrace, to accommodate the slope to the maximum extent feasible. Moreover, the granting of the exception is needed to permit roofline and façade variations, accents, tower elements, and other similar elements and the elements will not increase the floor area of the structure.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Planned Development Permit No. 525776/Site Development Permit No. 525777 is granted to Burgener-Clark, LLC a California Limited Liability Company, Craig W. Clark, Managing Member, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
Andrea Contreras Dixon  
Deputy City Attorney

ACD:pev  
04/30/08  
05/13/08 COR.COPY  
Or.Dept:DSD  
R-2008-990  
MMS #6451



001468

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT  
PERMIT INTAKE, MAIL STATION 501

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 43-0260

**PLANNED DEVELOPMENT PERMIT NO. 525776 (AMENDING PDP NO. 179619)**  
**SITE DEVELOPMENT PERMIT NO. 525777 (AMENDING SDP NO. 9100)**  
**BAY VIEW PLAZA [MMRP] – PROJECT NO. 149101**  
**CITY COUNCIL**

This Planned Development Permit [PDP] No. 525776/Site Development Permit [SDP] No. 525777 (Amending PDP No. 179619 and SDP No. 9100) is granted by the Council of the City of San Diego to Burgener-Clark, LLC, a California Limited Liability Company, Craig W. Clark, Managing Member, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0501 and 126.0601. The 5.31-acre site is located at 2509-2591 Clairemont Drive in the CC-1-3 (Community Commercial) zone of the Clairemont Mesa Community Plan. The project site is legally described as Lots 1 and 2 of West Clairemont Plaza Unit No. 1, Map No. 3780.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop the site with a shopping center, including retail commercial, restaurant and office uses, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated \_\_\_\_\_, on file in the Development Services Department.

The project or facility shall include:

- a. Demolition of existing buildings and construction in two phases. Phase I consists of 14,400 square-foot of office space, 49,100 square-foot of retail space (to include some restaurants), and 3,000 square-foot of quality restaurant. Phase II will consist of 8,400 square-foot of retail to be added;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking;
- d. Accessory improvements including retaining walls, signs and lighting; and



- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act [CEQA] Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

#### **STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.



8. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/ Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

11. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase per the approved Exhibit "A."



**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

13. As conditions of Planned Development Permit No. 525776/Site Development Permit No. 525777 (amending PDP No. 179619 and SDP No. 9100), the mitigation measures specified in the MMRP, and outlined in Addendum No. 149101 to Mitigated Negative Declaration [MND] No. 5540 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Addendum No. 149101 MND No. 5540 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Human Health/Public Safety/Solid Waste and Traffic

15. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

**LONG RANGE PLANNING REQUIREMENTS:**

16. The three major "Public Plaza" areas identified on sheet L-1 shall each include a minimum of two amenities from the following list: benches, seatwalls, community kiosks, fountains, public art, or urban furniture. Additionally, several bicycle racks shall be included on the project site. The amenities shall be installed prior to the issuance of occupancy permits.

**ENGINEERING REQUIREMENTS:**

17. This Permit shall comply with the provisions of Tentative Map No. 525789.

**LANDSCAPE REQUIREMENTS:**

18. Prior to issuance of construction permits for grading, the Permittee or Subsequent Owner shall submit landscape construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the Land Development Manual Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A."



19. Prior to issuance of construction permits for public right-of-way improvements, the Permittee or Subsequent Owner shall submit complete landscape construction documents for right-of-way improvements to the City Manager for approval. Improvement plans shall take into account a 40 sq-ft area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
20. Prior to issuance of any construction permits for buildings; the Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual, Landscape Standards to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan.
21. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or Subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.
22. The Permittee or Subsequent Owner shall maintain all landscape in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
23. The Permittee or Subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.
24. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Permittee or Subsequent Owner is responsible to repair or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or prior to Certificate of Occupancy.
25. A Substantial Conformance Review [SCR] shall be required for the future development of Phase 2 in accordance with Information Bulletin 500 and the City of San Diego's Land Development Code [LDC]. The SCR shall reflect all revisions to the Phase 1, "Landscape Development Plan," [Amendment to SDP# 9100 and PDP# 179619] as part of the Phase 2 proposal and shall be consistent with the Land Development Manual, Landscape Standards.



**PLANNING/DESIGN REQUIREMENTS:**

26. No fewer than 362 (phase 1) and 398 (phase 2) off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.
27. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.
28. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A;" or Citywide sign regulations.
29. Signage shall not be located within driveway visibility areas, as restricted by the Land Development Code.
30. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations of the SDMC.

**GEOLOGY REQUIREMENTS:**

31. Title Restrictions – Prior to issuance of any grading and/or building permit(s), the Owner/Permittee shall execute a Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement, in a form and content acceptable to the Director of the Development Services Department, or designated representative who shall provide:
  - (a) the Applicant unconditionally waives any claim of liability against the City of San Diego and agrees to defend, indemnify and hold harmless the City of San Diego and its advisors relative to the City of San Diego's approval of the project and for any damage due to natural hazards. This Notice of Hazardous Conditions-Indemnification and Hold Harmless Agreement shall be recorded against title to the property and shall run with the land, binding upon all successor and assigns.

**TRANSPORTATION REQUIREMENTS**

32. Phase I of the project shall consist of a maximum of 14,400 square feet of office, 49,100 square feet of retail (including a market with a maximum square footage of 14,000 square feet and a drug store with a maximum 15,000 square feet), and a 3,000 square feet quality restaurant,
33. Phase II shall consist of a retail building with a maximum of 8,400 square feet. The entire project may include a high turnover restaurant with a maximum of 3,300 square feet, a fast food restaurant with a maximum of 1,400 square feet, and at most one ATM.



34. No fewer than 362 off-street automobile, four carpool parking spaces, ten accessible spaces including two van accessible spaces, two loading spaces, seven bicycle spaces with racks, and seven motorcycle parking spaces shall be provided for Phase I. No fewer than 398 off-street automobile, seven carpool parking spaces, ten accessible including two van accessible spaces, two loading spaces, seven bicycle spaces with racks, and eight motorcycle parking spaces shall be provided in Phase II. These spaces shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A." Further, all on-site parking stalls and aisle widths shall be in compliance with the requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the City Manager.

35. Prior to the issuance of the first building permit, the applicant shall assure by permit and bond the restriping of Denver Street from Clairemont Drive to Ingulf Street, to include one northbound lane, one southbound lane, and a 2-way-left-turn-lane, satisfactory to the City Engineer.

36. Prior to the issuance of the first building permit, the applicant shall provide a Mutual Access Agreement, between all affected tenants, satisfactory to the City Engineer.

37. Prior to the issuance of any building permits, the applicant shall demonstrate the provision of an ability to maintain adequate visibility sight distance at all access point to the subject development, following the guidelines as set in the City Land Development Code section 113.0273 and AASHTO (Chapter 3, 2001 edition) guidelines as defined in the City of San Diego Street Design manual dated November 2002 (Page 116, Intersections, Item number 8), as appropriate, satisfactory to the City Engineer.

#### **WASTEWATER REQUIREMENTS:**

38. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

39. Prior to the issuance of any grading or building permits, the developer shall relocate all onsite public sewer mains located in the west portion of this site to the public right of way, satisfactory to the Metropolitan Wastewater Department Director. All associated onsite public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director. The onsite 10-inch public sewer main that traverses this site from east to west is excluded from this requirement.

40. Prior to the issuance of any public improvement or building permits, the developer shall obtain an Encroachment Maintenance and Removal Agreement for all approved structures or landscaping, including private sewer facilities, grading, and enhanced paving installed in or over the public sewer easement.

41. No structures or landscaping shall be installed in or over any sewer easement that would inhibit vehicular access to replace a section of main or provide access to any manhole or isolated section of main.



42. No trees shall be installed within ten feet of any sewer facilities or in any sewer access easement. No shrubs exceeding three feet in height at maturity shall be installed within 10 feet of any public sewer main or within access easements.
43. No other utilities, including gas, electric, telephone and fiber optic cable, shall be located within 10 feet of any public sewer main when these utilities are installed parallel to the sewer main. General Utility Easements [GUE] in private roads and driveways shall be sized with sufficient width to provide for other agencies facilities. In side yards or other non street areas, a GUE must be dedicated for the exclusive use of the City of San Diego or the Metropolitan Wastewater Department. Other agencies will require separate easements.
44. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
45. All proposed onsite sewer facilities shall be private.
46. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.
47. Prior to the issuance of any public improvement or building permits, the developer shall grant a private easement to the adjacent hotel lot to the east for their private sewer lateral.

#### **WATER REQUIREMENTS:**

48. Prior to the issuance of the first building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of public 16-inch water facilities within the Morena Boulevard right-of-way, from Ingulf Street to the northerly project boundary, replacing the existing water facilities adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.
49. Prior to the issuance of the first building permit, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s), including domestic, fire and irrigation, and the disconnection at the mains of all existing unused water services adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer. All on-site water facilities shall be private.
50. Prior to the issuance of any building permits, the Owner/Permittee shall apply for plumbing permit(s) for the installation of private back flow prevention device(s) on all water services to the development, including all domestic, fire and irrigation services, in a manner satisfactory to the Water Department Director and the City Engineer. All backflow prevention devices shall be located above grade and outside of any private structures.
51. Prior to the issuance of the first certificates of occupancy, the Owner/Permittee shall install and/or replace fire hydrants at locations satisfactory to the Fire Marshal, the



Water Department Director and the City Engineer. All on-site fire hydrants shall be private.

52. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall design and construct new public water facilities, into acceptable alignments and rights-of-way, in the event any public water facility in the vicinity of the project site loses integrity due to the construction and grading activities associated with this development, in a manner satisfactory to the Water Department Director and the City Engineer.

53. Prior to the issuance of any certificates of occupancy, the public water facilities, including domestic, fire and irrigation services and meters necessary to serve this development, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

54. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current editions of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities and easements, as shown on approved Exhibit "A," shall be modified at final engineering to comply with standards.

**METROPOLITAN TRANSIT DEVELOPMENT BOARD (MTDB)**  
**REQUIREMENT:**

55. The applicant shall participate in discussions with the San Diego Association of Government [SANDAG] regarding the possibility of providing shared transit parking at the shopping center as construction of the Mid-Coast light rail line approaches.

**INFORMATION ONLY:**

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
- This development may be subject to impact fees at the time of construction permit issuance

APPROVED by the City Council of the City of San Diego on \_\_\_\_\_,  
by Resolution No. R-\_\_\_\_\_.



001477

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

BURGENER-CLARK, LLC  
A California Limited Liability Company  
Owner/Permittee

By \_\_\_\_\_  
Craig W. Clark, Managing Member  
By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

PERMIT/OTHER - Permit Shell 11-01-04



001478

**PLANNING COMMISSION OF THE CITY OF SAN DIEGO  
MINUTES OF REGULAR SCHEDULED MEETING OF  
APRIL 3, 2008  
IN CITY COUNCIL CHAMBERS - 12<sup>TH</sup> FLOOR  
CITY ADMINISTRATION BUILDING**

*Item m: 19*

**CHRONOLOGY OF THE MEETING:**

Chairperson Schultz called the meeting to order at 9:12 a.m. Commissioner Schultz adjourned the meeting at 2:44 pm.

**ATTENDANCE DURING THE MEETING:**

Chairperson Barry Schultz - present  
Vice-Chairperson - Vacant  
Commissioner Robert Griswold - present  
Commissioner Gil Ontai - present  
Commissioner Dennis Otsuji - present  
Commissioner Eric Naslund - present  
Commissioner Mike Smiley - not present

Staff

Andrea Dixon, City Attorney - present  
Mary Wright, CP & CI - present  
Ceclia Gallaredo, Development Services Department - present  
Elisa Contreras, Recorder - present  
Donna Trask, Recorder - present



001479

Second by Commissioner Ontai. Passed by a vote of 5-0-2. Commissioner Smiley not present and one vacancy. Resolution No. 4393-PC

✓ ITEM-19:

**BAY VIEW PLAZA-PROJECT NO. 149101**

City Council District: 6; Plan Area: Clairemont Mesa

Staff: Farah Mahzari

Speaker slips in favor Dave Potter, Christopher Neils, Jeff Rogers, Craig W. Clark, Bruce Burgener.

No Speaker slips in opposition

**COMMISSION ACTION:**

MOTION BY COMMISSIONER GRISWOLD TO RECOMMEND CITY COUNCIL CERTIFY ADDENDUM NO. 149101 TO THE PREVIOUSLY CERTIFIED MITIGATED NEGATIVE DECLARATION NO. 5540;

RECOMMEND CITY COUNCIL APPROVAL OF PLANNED DEVELOPMENT PERMIT NO. 525776, SITE DEVELOPMENT PERMIT NO. 525777, AND TENTATIVE MAP NO. 525789 AS IN PRESENTED REPORT NO.PC-08-042. Second by Commission Ontai Passed by a 4-0-3 with Commissioner Otsuji-recusing Commissioner Smiley not present and one vacancy. Reso. #

This item heard out of order @10:44

*Commissioner Shultz adjourned the meeting at 2:44*

